

Exhibit 14

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA,	.	Criminal No. 1:01cr455
	.	
vs.	.	Alexandria, Virginia
	.	March 9, 2006
ZACARIAS MOUSSAOUI,	.	9:30 a.m.
a/k/a Shaqil, a/k/a	.	
Abu Khalid al Sahrawi,	.	
	.	
Defendant.	.	
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.	.	

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE LEONIE M. BRINKEMA
UNITED STATES DISTRICT JUDGE
VOLUME IV

APPEARANCES:

FOR THE GOVERNMENT:

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COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

1 its certification, MN-514.1, I offer both of those.

2 THE COURT: All right, MN-514 and 514.1?

3 MR. NOVAK: Yes, Your Honor.

4 THE COURT: Both in.

5 (Government's Exhibits Nos. MN-514 and MN-514.1 were
6 received in evidence.)

7 MR. NOVAK: That stipulation reads: On August 16 of
8 2001, Mr. Moussaoui purchased a Microsoft PowerPoint 2002 program
9 from CompUSA in Bloomington, Minnesota.

10 And then, Judge, finally, we would just offer business
11 records which are for a post office box that, they have been
12 marked MN-513, and it's a certificate of a business record of
13 MN-513.1. I would offer those as well.

14 THE COURT: There's no objection, correct?

15 MR. MAC MAHON: No objection, Your Honor.

16 THE COURT: 513 and 513.1 are in.

17 MR. NOVAK: Yes, Your Honor, thank you.

18 (Government's Exhibits Nos. MN-513 and MN-513.1 were
19 received in evidence.)

20 MR. NOVAK: We would call Agent Samit, please.

21 THE COURT: All right. Ladies and Gentlemen, if you're
22 hearing a slight roar, I think we're losing our air conditioning,
23 and it may get warm in here. Fortunately, it's the end of the
24 trial week, and we'll hopefully have it repaired over the weekend.
25 But I just don't want you to be surprised if it starts to warm up.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV

Page 793

1 And that's what the noise is if any of you are hearing it.

2 HARRY SAMIT, GOVERNMENT'S WITNESS, AFFIRMED

3 MR. NOVAK: May I proceed, Your Honor?

4 THE COURT: Yes, sir.

5 DIRECT EXAMINATION

6 BY MR. NOVAK

7 Q. Sir, could you introduce yourself to the good jurors by
8 telling them your first and your last name, spelling both?

9 A. Harry Samit, H-a-r-r-y S-a-m-i-t.

10 Q. Mr. Samit, could you tell the folks by whom you're employed?

11 A. The Federal Bureau of Investigation.

12 Q. In what capacity?

13 A. As a special agent.

14 Q. And how long have you been a special agent with the FBI?

15 A. Since January of 1999.

16 Q. Is that when you left the FBI academy?

17 A. No. I left the FBI academy in May of 1999.

18 Q. And when you left the academy in May of 1999, where did you
19 get assigned to?

20 A. The Minneapolis field office.

21 Q. And have you been assigned there since then?

22 A. I have.

23 Q. All right. So you remain a special agent up there in
24 Minneapolis; is that right?

25 A. That's correct.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV

Page 794

1 Q. And could you tell the good folks on what -- what kind of
2 assignment do you have as a special agent with the FBI up there in
3 Minneapolis?

4 A. I'm an investigator assigned to the Joint Terrorism Task
5 Force.

6 Q. Tell the folks what the Joint Terrorism Task Force is.

7 A. The Joint Terrorism Task Force is an organization of law
8 enforcement agents and officers who investigate international
9 terrorism under the framework set up by the FBI. It's got
10 personnel from a variety of different law enforcement agencies.

11 Q. Do you want to list some of the different agencies that work
12 with you on that Joint Terrorism Task Force?

13 A. Immigration and Naturalization Service, United States Secret
14 Service, local police officers, sheriff's deputies, a variety of
15 different investigators.

16 Q. And beyond your assignment on the, on the -- JTTF is the
17 acronym for the Joint Terrorism Task Force; is that right?

18 A. Correct.

19 Q. Beyond your assignment to the JTTF, can you tell us what else
20 you do there as a special agent up there in Minnesota?

21 A. At the time in 1999, I was assigned as a pilot with the FBI
22 as well.

23 Q. We're going to talk about your pilot training in a second,
24 but your squad that you're assigned to is squad what?

25 A. Squad 5.

1 Q. And squad 5 up there includes the investigation of what types
2 of crime?

3 A. In, in 2001, it included the investigation of international
4 terrorism, domestic terrorism, and foreign counterintelligence.

5 Q. And would it be fair to say that since your inception into
6 the FBI, your initial assignment up there in Minneapolis, you've
7 basically been working full-time on terrorism investigations?

8 A. Yes, sir.

9 Q. Now, could you tell us, have you received any type of
10 specialized training in the world of terrorism?

11 A. I have. During the FBI academy, the new agent training,
12 there was a terrorism integrated case scenario which I
13 participated in along with my class. I also attended a basic
14 international terrorism in-service after graduating the FBI
15 academy, and then later a double agent and recruitment in-service
16 as well.

17 Q. Okay. Now, in addition to that, you're a pilot as well; is
18 that right?

19 A. That's correct.

20 Q. And have you received any type of pilot training within the
21 FBI?

22 A. I have. I attended the FBI-sponsored Cessna Pilots
23 Association introduction to the Cessna 182 aircraft.

24 Q. Those are little planes; is that right?

25 A. That's correct.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV

Page 796

1 Q. All right.

2 A. As well as their air crew coordination seminar.

3 Q. All right. Do you want to tell the folks what you did before
4 you joined the FBI?

5 A. I was an officer in the United States Navy.

6 Q. And how long were you employed by the United States Navy?

7 A. From May of 1990 until joining the FBI in January of 1999.

8 Q. So for about nine years; is that right?

9 A. Yes, sir.

10 Q. And when you left the Navy after those nine years, what was
11 your rank?

12 A. Lieutenant commander.

13 Q. Okay. So you were commissioned in what area?

14 A. In intelligence.

15 Q. All right. And what exactly -- what was your duties there in
16 the Navy as an intelligence officer?

17 A. During my time in intelligence, I spent the entire time
18 assigned to aviation commands. I was first assigned to a
19 sea-going squadron, flying aircraft off of an aircraft carrier. I
20 did an exchange tour with the Canadian Air Force at their
21 headquarters in Ottawa, and then I was an instructor at the Navy
22 Fighter Weapons School, a top gun.

23 Q. And what is it that you were supposed to do? What was your
24 job?

25 A. As an intelligence officer with aviation units, it was my job

1 primarily to evaluate threat air forces and air defense forces, to
2 look at their training, their capabilities, specifically with
3 regard to pilot training capabilities. We'd evaluate -- I would
4 evaluate the number of hours, the types of training they did, and
5 determine what kind of pilots they would be.

6 Q. Okay. Now, you talked to us also about the fact that you
7 went to the top gun school; is that right?

8 A. That's correct. I was there as a student, and then I stayed
9 as an instructor.

10 Q. Okay. And you have training also as a navigator; is that
11 right?

12 A. That's correct.

13 Q. And for those of us who have watched the "Top Gun" movie,
14 were you sitting in the first seat or the second seat?

15 A. The back seat.

16 Q. All right. And how much training did you get as a navigator?

17 A. Approximately six months.

18 Q. All right. And going back to your training in terms of what
19 you were supposed to analyze, how much time did you spend
20 analyzing the pilot trainings for other countries?

21 A. When I was doing threat evaluations and looking at threat air
22 forces, probably 40 to 50 percent would be evaluating the pilot
23 capabilities.

24 Q. Over what span of time?

25 A. The entire time, from 1990 -- 1991 to 1999.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV

Page 798

1 Q. So during those nine years, you were -- I gather you were
2 evaluating hostile countries to see what kind of pilot training
3 that they were giving to, to members of their Air Force; is that
4 right?

5 A. Yes, sir.

6 Q. All right. Now -- so you're pretty familiar with flight
7 training; is that correct?

8 A. Flight standards, absolutely, sir.

9 Q. All right. Now, you yourself, separate from the Navy, became
10 a pilot; is that right?

11 A. That's correct.

12 Q. And when was it approximately that you became a pilot?

13 A. 1997.

14 Q. And could you tell us, what's your license certification
15 level?

16 A. I am a private pilot, single engine fixed wing land airplane,
17 and I have a complex and high-performance endorsement.

18 Q. Okay. And the private pilot license, is that known as a PPL?

19 A. Correct.

20 Q. And could you tell the folks how it is that you went about
21 getting your PPL?

22 A. I had flown in the Navy and decided that I enjoyed that. My
23 tour in Canada with the Canadian Air Force was a ground job. I
24 didn't get to fly, so I went and decided I wanted a private
25 pilot's license so I could do that. I went to a flying school. I

1 asked, inquired about price and availability. They were
2 welcoming. They said: Come on in, and we'll teach you to fly.

3 Q. And what did you have to do before they started teaching you?
4 Did you have to take any type of physical?

5 A. I did. I had to take a medical to prove that I was medically
6 fit to be able to fly.

7 Q. Does that happen with anybody? Is that required by the FAA
8 that before you can get your PPL, that you have to take some basic
9 level of a physical of some sort?

10 A. Yes, sir, that's correct.

11 Q. And what's the purpose behind that? What do they examine you
12 for?

13 A. To make sure that vision, cardio, respiratory system, hearing
14 are all in accordance with my ability, with anyone's ability to
15 operate an aircraft safely.

16 Q. Okay. And did you do that?

17 A. I did.

18 Q. Okay. And did you get your -- you were medically passed; is
19 that right?

20 A. I was.

21 Q. And then did you get your training there in Ottawa at that
22 flight school that you attended?

23 A. That's correct.

24 Q. All right. And could you tell us, when you start your flight
25 school, what's the first thing that you do?

1 A. In my case, I went to ground school.

2 Q. And can you tell the folks what flight school -- ground
3 school consists of?

4 A. It's academic training. Aircraft systems, navigation, rules
5 and regulations governing how you are allowed to fly an airplane.
6 Very similar to the types of aviation training that began my naval
7 aviation training.

8 Q. Okay. Thereafter, did you start taking flight training where
9 you actually flew in the plane?

10 A. I did.

11 Q. By the way, what kind of planes were you flying in at that
12 time? The little Cessnas?

13 A. Cessna 150s.

14 Q. No kind of jets or anything like that, is that right?

15 A. No.

16 Q. All right. Can you tell us, do you just jump in the Cessna
17 and start taking it up for a ride, or has somebody got to jump in
18 there with you?

19 A. You're in there with a qualified instructor.

20 Q. All right. And how many hours did you spend with a qualified
21 instructor in dual-flight situations, where you're not flying
22 solo?

23 A. Dual flight, where the instructor is with me in the airplane,
24 it took me about ten hours of dual flight before I was ready to
25 solo.

1 Q. Okay. And did you indeed solo?

2 A. I did.

3 Q. All right. And then ultimately, how many hours did it take
4 you until you were certified as a -- with your PPL license?

5 A. Just under 50.

6 Q. All right. And you got -- you were certified; is that right?

7 A. Yes, sir.

8 Q. And approximately how many pilot hours do you have as you sit
9 here today as a private pilot?

10 A. Approximately 250.

11 Q. And approximately how many hours do you have sitting here
12 today as a navigator?

13 A. About 350.

14 Q. Now, despite those hours, I guess combined over 500 hours,
15 have you ever tried to go up to the next step of getting your
16 commercial license?

17 A. I have not.

18 Q. How many hours do you think that it normally takes before you
19 go up to that next step?

20 MR. MAC MAHON: Objection, Your Honor. He's an FBI
21 agent, not a commercial pilot. That's irrelevant.

22 MR. NOVAK: Well, no, he's a --

23 THE COURT: He may be, but I think we've already heard a
24 great deal of this from the other witnesses, and I had assumed
25 Agent Samit was being called for other purposes.

1 MR. NOVAK: That's fine, Your Honor. I'll move on.

2 THE COURT: I think before you move on to a new topic,
3 this is a logical stopping point for the one-hour lunch break.
4 Agent Samit, you'll need to be back here at 1:30. We'll recess
5 court until that time.

6 (Recess from 12:28 p.m., until 1:30 p.m.)

7
8 CERTIFICATE OF THE REPORTERS

9 We certify that the foregoing is a correct transcript of the
10 record of proceedings in the above-entitled matter.

11
12
13 Anneliese J. Thomson

14
15
16 Karen Brynteson
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3-9-06

U.S. v. MOUSSAOUI

Vol. IV

Page 803

I N D E X

DIRECT CROSS REDIRECT RECROSS

WITNESSES ON BEHALF OF
THE GOVERNMENT:

Shohaib Nazir Kassam	674	689	699	700
Clarence E. Prevost	716	772	788	789
Harry Samit	793			

EXHIBITS

MARKED RECEIVED

GOVERNMENT'S:

No. FO05521.11	705
FO05521.12	705
FO05521.14	705
FO05521.30	705
FO05521.29	705
FO05521.66	705
FO05521.70	705
MN-151	706
MN-617.1	707
MN-154	708
FO-5521.54	708
FO-5521.55	708
ST-2	710
FO-5521.57	710
FO-5521.58	710
FO-5521.59	711
FO-5521.60	711
FO-5521.61	712
MN-617.2	712
FO-5521.75	714
FO-5521.76	714
FO-5521.78	715
MN-150 through MN-156	716
MN-515	716

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3-9-06

U.S. v. MOUSSAOUI

Vol. IV

Page 804

EXHIBITS

MARKED

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GOVERNMENT'S:

No. MN-111

721

MN-112

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MN-113

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MN-105

724

MN-101

726

MN-102

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MN-103

727

MN-144

732

MN-128

732

GX-2

740

MN-108

741

MN-508.1

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MN-508.2

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MN-617.3

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MN-511

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MN-611

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MN-512.1

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MN-512.2

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MN-514.1

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MN-513

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3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 805

1 UNITED STATES DISTRICT COURT
 2 FOR THE EASTERN DISTRICT OF VIRGINIA
 3 ALEXANDRIA DIVISION

4 UNITED STATES OF AMERICA, . Criminal No. 1:01cr455

5 vs. .

Alexandria, Virginia

March 9, 2006

6 ZACARIAS MOUSSAOUI, .

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a/k/a Shaqil, a/k/a .

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9

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 12 UNITED STATES DISTRICT JUDGE
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14 APPEARANCES:

15 FOR THE GOVERNMENT:

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24 COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES
 25

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3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 807

1 A F T E R N O O N S E S S I O N

2 (Defendant and jury in.)

3 THE COURT: All right. Mr. Novak?

4 MR. NOVAK: May I proceed?

5 THE COURT: Yes, sir.

6 MR. NOVAK: Thank you, Judge.

7 HARRY SAMIT, GOVERNMENT'S WITNESS, PREVIOUSLY AFFIRMED,

8 RESUMED

9 DIRECT EXAMINATION - (continued)

10 BY MR. NOVAK:

11 Q. Agent Samit, on August the 15th of 2001, were you assigned
12 still as the special agent to the FBI in Minneapolis?

13 A. I was.

14 Q. And at that time did you have an occasion to get assigned to
15 the investigation of Zacarias Moussaoui?

16 A. Yes.

17 Q. And at that time who was your supervisor?

18 A. I had an acting supervisor, Gregory Jones.

19 Q. And was there a fellow special agent by the name of Dave Rapp
20 that also worked with you?

21 A. Yes, sir.

22 Q. Was he relatively new?

23 A. He was very new, yes, sir.

24 Q. Do you want to tell us how it is that you -- how the
25 investigation into Zacarias Moussaoui began?

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 808

1 A. Special Agent Rapp had complaint duty that day. It is a
2 rotating shift. All the agents in the office have to answer phone
3 calls from the public and other law enforcement agencies. Special
4 Agent Rapp had occasion to take a call from Pan Am, and the
5 person, the caller, Tim Nelson, provided some fairly significant
6 information.

7 Q. What was the initial information that you-all received there
8 from Pan Am?

9 A. That they had a student they were training at the flight
10 academy on simulators for 747-400 series aircraft who was very
11 unusual.

12 Q. Okay. Did they give you the student's name?

13 A. They did.

14 Q. And did they tell you why it is that the student was unusual?

15 A. Yes, sir. They said that he didn't have any ratings, any
16 aviation ratings or licenses.

17 Q. What does that mean to you as a criminal investigator?

18 A. It means that for a person to want to do expensive aviation
19 training, typically it is going to lead somewhere, to a job
20 opportunity or to a job enhancement.

21 Q. And by not pursuing the ratings, that means they are just not
22 doing it for the -- to benefit themselves financially; is that
23 right?

24 A. Yes, sir.

25 Q. Not worth the investment, right?

1 A. Yes, sir.

2 Q. Did they tell you whether the student, Mr. Moussaoui, was
3 employed by an airline?

4 A. They did. They said he was not. He had no affiliation with
5 any airline.

6 Q. Was that unusual?

7 A. It was.

8 Q. Why was that unusual?

9 A. Because the typical student, as was explained to us, is an
10 airline pilot or is seeking employment with an airline and is
11 already qualified to do so.

12 Q. And was it also -- would it also be the norm that that's who
13 would pay for this expensive training?

14 MR. MAC MAHON: Your Honor, this is an FBI agent. We
15 don't need leading questions every time for him, Your Honor, if we
16 could get the testimony.

17 THE COURT: Objection sustained. You can't lead,
18 Mr. Novak.

19 MR. NOVAK: Okay.

20 BY MR. NOVAK:

21 Q. Why would that be unusual?

22 A. Because the airlines typically would pay for the student, or
23 the student would be making an investment in their own training in
24 order to become eligible to be hired by an airline.

25 Q. Okay. Did they tell you how much the training for

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 810

1 Mr. Moussaoui cost?

2 A. The caller didn't know for sure, but said it was between 8-
3 and 9,000 dollars.

4 Q. Okay. And what, if any, information did you get about the
5 amount of hours or licensing that Mr. Moussaoui had?

6 A. It was low. It was less than 60 hours of flight time.

7 Q. All right. Did you receive information about what type of
8 plane it was that Mr. Moussaoui was pursuing the training on?

9 A. Yes, sir.

10 Q. What type of plane was that?

11 A. 747-400 series airliner.

12 Q. All right. And could you tell us, are you familiar with the
13 notion of a glass cockpit?

14 A. Yes, sir.

15 Q. Could you tell us what the glass cockpit means to you and the
16 investigatory significance of that?

17 A. What it means to me as a pilot is the way the information is
18 displayed to the pilot in the cockpit is different. Older
19 airplanes, as compared to glass cockpit airplanes, have individual
20 gauges that display the information, critical information that the
21 pilot needs. When an airplane is said to have a glass cockpit, it
22 relies on a much smaller number of multi-function displays,
23 television screens in the cockpit.

24 Q. What, if any, impact did that have in terms of you in terms
25 of your thinking about whether criminality was afoot?

1 A. My initial thought was that it's a simpler interface for a
2 relative novice, so that if someone had illegitimate purposes in
3 mind for wanting to receive the flight training, that would be an
4 ideal type of aircraft, because they wouldn't need as much
5 training and experience if they were to try and fly it.

6 Q. And what if any impact would the glass cockpit have on the
7 number of -- if there was criminality afoot, the number of
8 accomplices that would have to be involved?

9 MR. MAC MAHON: Your Honor, that's an entirely
10 speculative question. He is not an expert in hijackings with
11 glass cockpits or not or anything else.

12 MR. NOVAK: This goes to why --

13 THE COURT: I think, both being an experienced pilot and
14 an investigator, this witness can testify about what it was about
15 a glass cockpit that would give him concern. And I believe that's
16 the way the question is phrased.

17 MR. NOVAK: That's what the purpose of the question is,
18 yes.

19 THE COURT: Overruled.

20 THE WITNESS: The other issue would pertain to the
21 number of crew members in the cockpit. Because the glass cockpit
22 airplanes typically have increased automation, they need fewer
23 people in the cockpit. And so in order to take over an airplane,
24 it would be the difference between having to overwhelm one or two
25 people as opposed to three or four.

1 BY MR. NOVAK:

2 Q. All right. Now, in addition to that information, did you ask
3 for and receive any additional background information, identifiers
4 or anything like that from the defendant?

5 A. We were able to get his name, his date of birth, and the fact
6 that he was, said he lived in England and was from France, at
7 least initially.

8 Q. Now, once you got that information, did you open up a case,
9 an investigation?

10 A. We did.

11 Q. Could you explain to the ladies and gentlemen what kind of
12 case that you opened up?

13 A. Within probably 30 minutes of receiving that telephone call
14 we opened an intelligence investigation.

15 Q. As an agent that's assigned to investigate terrorism
16 organizations, could you tell us, is there more than one type of
17 case that you can open up as an investigator?

18 THE COURT: I think -- wait, Mr. Novak. The better form
19 of that question was in that time period, because you are looking
20 at the 2001 time period.

21 MR. NOVAK: Yes, Your Honor, excuse me, you are right.

22 BY MR. NOVAK:

23 Q. Back in August of 2001, could you tell us what type of
24 investigatory cases that you could open up?

25 A. During that time we had the intelligence investigation, which

1 we did actually open on Mr. Moussaoui, and we also had a criminal
2 investigation.

3 Q. All right. I want to ask you to explain the difference.

4 Starting with the criminal, what is -- criminal investigation,
5 what was your goal back in 2001 if you were to open up just a
6 standard criminal investigation?

7 A. Like any other type of crime that the FBI investigates, the
8 goal of a criminal investigation pertaining to terrorism is to
9 collect evidence of a crime relating to international terrorism.

10 Q. And would that -- with a mind-set towards what?

11 A. Towards prosecution.

12 Q. All right. Now, contrast that with opening up an
13 intelligence investigation, what's, what do you do there?

14 A. An intelligence investigation is designed to generate
15 intelligence, intelligence whose goal would be to safeguard
16 national security.

17 Q. And by safeguarding national security, what does that mean?
18 What would you try to accomplish towards that goal?

19 A. We would attempt to use any information derived from a case,
20 an intelligence investigation, to strengthen our ability to deal
21 with threats to national security, whether it be espionage or
22 terrorists, ways to implement countermeasures to deny them their
23 objectives, without necessarily prosecuting anybody, but we could
24 still take steps, countermeasures to prevent them from
25 accomplishing their goals.

1 Q. Explain to us, if you are not going to arrest somebody, how
2 is it that you could end up protecting national security during
3 your investigation? What are the types of things you can do?

4 A. We can use that intelligence to deny personnel access to the
5 United States, to certain classified information; we can use that
6 intelligence to implement countermeasures, security
7 countermeasures to make whole sectors safer. Any time information
8 comes of a threat, or intelligence comes regarding a threat, the
9 government, without arresting anyone, could implement
10 countermeasures which would counter that.

11 Q. Okay. Now, what if during the course of an investigation, an
12 intelligence investigation, you decide that you have gathered
13 enough information to charge somebody criminally? Are you allowed
14 to do that?

15 THE COURT: Were you allowed to do that, in that time
16 period?

17 MR. MAC MAHON: Time frame.

18 BY MR. NOVAK:

19 Q. All my questions, I was going to say all my questions are
20 dedicated to that August of 2001 time period, okay?

21 A. Yes, sir. At the time we could, there was a mechanism by
22 which a criminal investigation and prosecution could occur, but
23 there were a number of steps that needed to be gone through before
24 that could happen.

25 Q. Could you explain to us what those steps were?

1 A. There was a term called the wall. And the wall was supposed
2 to be a barrier between intelligence and criminal investigations
3 wherein information developed on the intelligence investigation
4 could not be supplied at the wall to those working the criminal
5 investigation.

6 Q. And what was the purpose of the wall?

7 A. To prevent abuse, to prevent people in the FBI and law
8 enforcement from utilizing information gathered under the auspices
9 of national security to be used to prosecute someone, without
10 safeguards and checks imposed on that.

11 Q. Are there a difference -- back in August of 2001, was there a
12 difference in terms of the safeguards that were in place in terms
13 of what you needed to do for oversight purposes?

14 MR. MAC MAHON: Can we have some kind of foundation
15 here, Your Honor? We're just jumping right into a very complex
16 issue without establishing how he knows any of this, whether he
17 learned it before, whether it is something he has learned since or
18 anything else.

19 MR. NOVAK: He was an active agent.

20 THE COURT: Agent Samit, in the course of your being
21 trained to be an FBI agent, was this wall explained to you?

22 THE WITNESS: Yes, Your Honor, it was.

23 THE COURT: Were the reasons for the wall explained to
24 you?

25 THE WITNESS: They were.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 816

1 THE COURT: Was that part of the standard procedure at
2 Quantico in training new agents?

3 THE WITNESS: It was not part of the procedure at
4 Quantico but at the subsequent follow-on in-services, there were
5 classes, extensive sessions, like a whole afternoon's worth given
6 on the explanation of the wall and the separation of the two types
7 of investigations.

8 THE COURT: And those special courses, were those for
9 agents who were specializing in the kind of work you were doing;
10 that is, counterterrorism.

11 THE WITNESS: They were not.

12 THE COURT: That's more than an adequate foundation.

13 MR. NOVAK: Thank you, Judge.

14 BY MR. NOVAK:

15 Q. Now, we were talking about the wall there. Again, could you
16 explain to us the amount of safeguards that you had to, or
17 oversight that you had to go through, if you were working on the
18 intelligence side versus the criminal side?

19 A. We could -- the system was set up whereby there could be a
20 group of, separate group of agents within the same office who were
21 working criminal investigation against the same subject. It was
22 important, especially for the people working the intelligence case
23 against that person, to be very cognizant that they not share
24 information that was derived directly.

25 Instead what we were required to do during that time

1 period was apply to our headquarters, who would then apply to the
2 Department of Justice for authority to do that.

3 Q. Okay. And was there a particular unit within the Department
4 of Justice that you needed approval from in order to switch the
5 case from an intelligence to a criminal case?

6 A. Not to switch, not to switch the cases.

7 Q. Or share the information.

8 A. It was the Office of Intelligence Policy Review, OIPR.

9 Q. And could you tell us what impact the wall had upon you in
10 terms of going to -- well, strike that. Let me step back.

11 In a criminal case, who are the attorneys that you would
12 normally deal with if you were to pursue a criminal investigation?

13 A. Assistant United States attorneys in the District of
14 Minnesota.

15 Q. And if you opened an intelligence case, were you able to deal
16 with the assistant United States attorneys that were located there
17 in Minneapolis?

18 A. No, that would fall under the heading of our needing to go to
19 the Office of Intelligence Policy Review first for authority.

20 Q. And they would have to approve that before you could share
21 information with them; is that correct?

22 A. Yes, sir.

23 Q. Now, let's go back to Mr. Moussaoui, and with the information
24 that you received from the Pan Am School, you had indicated you
25 had received a number of biographical information about him. Did

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 818

1 you share that with any of your fellow investigators assigned to
2 the JTTF?

3 A. I did. I shared it with Immigration and Naturalization
4 Service, Special Agent John Weess.

5 Q. And he was assigned to your task force?

6 A. Yes, sir.

7 Q. And he is a member of the INS; is that right?

8 A. That's correct.

9 Q. Could you tell us why it is that you shared that information
10 with Agent Weess?

11 A. We had indications that Mr. Moussaoui was, in fact, a foreign
12 national, and one of the initial checks we do is to determine
13 whether that person is legally in the United States, whether they
14 entered legally initially, and whether they remain in legal status
15 now.

16 Q. Okay. And did you determine his nationality?

17 A. We did.

18 Q. What was his nationality?

19 A. His nationality -- he was carrying a French passport.

20 Q. All right. And as a result, could you tell us what a legat
21 is in the world of the FBI?

22 A. A legat is an acronym that stands for legal attache. They
23 are FBI agents who are assigned to a number of U.S. embassies
24 around the world, and they serve as the FBI's liaison to that
25 government.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 819

1 Q. And back in August of 2001, did the FBI have a legat to the
2 country of France?

3 A. We did.

4 Q. And what was that person's name?

5 A. The legat's name was Enrique Camente.

6 Q. Well, who did -- did you deal with somebody in particular, an
7 assistant legat?

8 A. I did. I dealt with assistant legal attache, Jay Abbott.

9 Q. And when you found out that Mr. Moussaoui was French, did you
10 initiate a request for information from Mr. Abbott?

11 A. Yes.

12 Q. You would get that sometime later; is that right?

13 A. That's correct.

14 Q. We will move on.

15 Now, in addition to finding out that he was French, did
16 Agent Weess determine, along with you, what Mr. Moussaoui's status
17 was in terms of being an immigrant into the United States?

18 A. He did. He was able to determine very quickly that
19 Mr. Moussaoui was out of status.

20 Q. Well, out of status means what?

21 A. Out of status means illegally in the United States.

22 Q. Okay. And how had he entered the United States?

23 A. Special Agent Weess's checks indicated Mr. Moussaoui entered
24 the United States on the visa waiver program.

25 Q. Could you tell us what the visa waiver program is?

1 A. It is -- the visa waiver program is open to citizens,
2 passport holders from a variety of countries considered friendly
3 to the United States. If you are a passport holder from one of
4 those nations, you are --

5 Q. France being one of those nations?

6 A. France being one of those nations, you are eligible, in fact,
7 rather than having to go to a U.S. consular section and applying
8 for a visa to enter the United States, you can, with your passport
9 and round trip airline tickets, apply as you're on your flight for
10 the visa waiver program. It is essentially filling out a single
11 form.

12 Q. It is a convenience for those citizens of countries that are
13 friendly with us; is that right?

14 A. Yes, sir.

15 Q. Now, is there a limit on how long somebody can stay in the
16 United States who procures a visa pursuant to the visa waiver
17 program?

18 A. 90 days.

19 Q. And could you tell us what is the consequence of somebody who
20 stays longer than 90 days?

21 A. Subsequent to that 90-day period, they are subject to arrest
22 and deportation.

23 Q. And when somebody violates the 90-day rule, are they able to
24 get bond or to pursue a change in the status or anything like
25 that?

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 821

1 A. They are not.

2 Q. Now, when you did this check on Mr. Moussaoui, did you find
3 out when it was that he had entered the United States?

4 A. I did. Special Agent Weess's records indicated that he
5 entered on February 23rd of 2001.

6 Q. So then his 90 days would have expired on what day?

7 A. May 22nd, 2001.

8 Q. So as of August the 15th he was well over the 90-day time; is
9 that right?

10 A. Yes, sir.

11 Q. So you were able to arrest him if you wanted to; is that
12 correct?

13 A. Correct.

14 Q. Now, by the way, when somebody is arrested for that
15 violation, what happens to them? You told us they don't get bond,
16 but what's the ultimate result? What occurs to them?

17 A. They are deported to either their country of citizenship or
18 their country of origin.

19 Q. Now, on August the 15th then did you have an occasion to
20 speak with Clancy Prevost?

21 A. I did. I spoke with him on the telephone.

22 Q. All right. And could you tell us why it is that you spoke
23 with Mr. Prevost?

24 A. I spoke with Mr. Prevost because I had been directed to him.
25 I had been informed that he was Mr. Moussaoui 's ground school

1 instructor and, in fact, that he would be in a position to provide
2 me some additional background information that the initial callers
3 couldn't.

4 Q. So you telephoned him?

5 A. I did.

6 Q. And could you tell us what it is that Mr. Prevost told you
7 about Mr. Moussaoui at that time?

8 A. He told us, he told me that he considered Mr. Moussaoui to be
9 an unusual student. He related that he did believe that
10 Mr. Moussaoui was from France, that he spoke English with a French
11 accent. He explained that he had conducted two days of ground
12 school training with him and done one simulator session.

13 I decided that it would probably be the most efficient
14 to interview Mr. Prevost in person, and we agreed that we would
15 meet the next day for an interview.

16 Q. Okay. Before we do that, let me ask you a couple particular
17 questions, though, about your telephone contact with Mr. Prevost.
18 At any time did Mr. Prevost tell you anything about where it is
19 that he believed Mr. Moussaoui was staying?

20 A. He did. Mr. Prevost had information about Mr. Moussaoui's
21 hotel room.

22 Q. And where was that?

23 A. The Residence Inn in Eagan.

24 Q. Okay. And Eagan is where in relation to Minneapolis?

25 A. Eagan is a southern suburb of the Twin Cities.

1 Q. Did he give you any type of information about whether

2 Mr. Moussaoui was associated with any type of car?

3 A. He did. He was able to describe a sedan and give a partial
4 license plate and a color of the license.

5 Q. All right. Did he tell you the make of the car?

6 A. He did.

7 Q. What kind of car was that?

8 A. Subaru.

9 Q. All right. And did you learn from Mr. Prevost if
10 Mr. Moussaoui was traveling alone or with somebody else?

11 A. Mr. Prevost indicated that Mr. Moussaoui had a companion.

12 Q. And did he give you any further information about that
13 companion at the time?

14 A. He was able to describe him as a male, dark complected, with
15 dark hair.

16 Q. All right. And did you ask Mr. Prevost in terms of how long
17 Mr. Moussaoui was scheduled for training?

18 A. Mr. Prevost, because he had completed his ground school
19 portion, was uncertain as to his exact schedule. He was able to
20 refer me back to the school, but he said he had a number of
21 simulator sessions coming up in the next few days.

22 Q. Who did Mr. Prevost refer you to at the Pan Am Academy for
23 the schedule?

24 A. Alan McHale.

25 Q. Now, directing your attention to the next day, August the

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 824

1 16th of 2001, did your investigation continue with Agent Weess and
2 Agent Rapp going anywhere?

3 A. It did. Special Agents Weess and Rapp went to the Residence
4 Inn in Eagan and located the car that Mr. Prevost had described.

5 Q. And what kind of license plates were on that car?

6 A. Oklahoma.

7 Q. And was it reported to you, the license plate, from their
8 surveillance of the car?

9 A. It was.

10 Q. And did you then run the license plates to figure out who the
11 registered owner was of the vehicle?

12 A. I did.

13 Q. And who was the registered owner of the vehicle?

14 A. It came back with two registered owners, Abdullah and Hussein
15 al-Attas.

16 Q. And before that time, before you had run the license plates,
17 had you heard the names Hussein al-Attas or Abdullah al-Attas?

18 A. No, sir.

19 Q. And did the information that you received from running the
20 license plate tell you where the car was registered?

21 A. It did, to a post office box in Norman, Oklahoma.

22 Q. And before the running of the plates, did you ever have any
23 information that pertained to Oklahoma before then?

24 A. No, sir.

25 Q. Now, after that, around noon on that day, the 16th, did you

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 825

1 have an occasion to go to the Pan Am Academy yourself?

2 A. Yes, sir, I did.

3 Q. Who did you speak with at the Pan Am Academy?

4 A. I spoke with Alan McHale.

5 Q. And at that time did he give you a schedule?

6 A. He did. He provided me a schedule for Mr. Moussaoui's
7 simulator training.

8 MR. NOVAK: If we can put Exhibit MN-617.3 on the
9 screen, which has already been introduced, Your Honor.

10 THE COURT: Yes.

11 BY MR. NOVAK:

12 Q. I am showing you that exhibit, Agent Samit. Do you recognize
13 that exhibit?

14 A. Yes, sir.

15 Q. What is that exhibit?

16 A. That was what was provided by Mr. McHale.

17 Q. All right. And is there anything of import on that schedule
18 for you in terms of the way your investigation proceeded?

19 A. I noted that there was a day off on Friday.

20 Q. Okay. What did that tell you?

21 A. Well, that was the Muslim Sabbath, and it was just a possible
22 indicator that the person who had scheduled that was a very
23 religious Muslim.

24 Q. Okay. Was there any other, anything else of import on that
25 schedule for you in terms of how you were to proceed with the

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 826

1 investigation?

2 MR. MAC MAHON: Your Honor, if I may, in terms of forms
3 of these questions, I assume these questions are asked as to what
4 he assumed on the day that he saw this the first time. Because
5 the questions are a little broader than that. If we have that
6 time frame, I have no objection.

7 MR. NOVAK: I asked him when he got the schedule.

8 THE COURT: I assume that's what they meant. But just
9 so we're clear --

10 MR. NOVAK: I asked him when he got the schedule, Judge.
11 I thought that was pretty clear.

12 THE COURT: When he got the schedule.

13 BY MR. NOVAK:

14 Q. When you got the schedule there, Agent Samit, what else of
15 import was on there?

16 A. It also allowed me to predict fairly accurately when
17 Mr. Moussaoui would be traveling to and from his simulator
18 sessions.

19 Q. Was there any indication to you when that training would end?

20 A. Yes. His last day, his last simulator day was August 20th.

21 Q. Now, we can put that down. Thank you, Gerard.

22 Now, thereafter you spoke to Mr. McHale. By the way,
23 did you ask him how it was that Mr. Moussaoui paid for his
24 training?

25 A. I did.

1 Q. And what response did you get?

2 A. He told us that he paid in cash.

3 Q. Okay. And thereafter you met with Mr. McHale. Did you have
4 an occasion to interview Mr. Prevost in person?

5 A. I did. We responded to Mr. Prevost's hotel, as we had agreed
6 the day before, and we conducted an interview.

7 Q. Can you tell us what it is that Mr. Prevost told you at that
8 time?

9 A. Mr. Prevost was able to elaborate on his contact with
10 Mr. Moussaoui, to describe his interest in aviation but his utter
11 lack of experience and knowledge. He discussed the fact that they
12 talked about Mr. Moussaoui was a resident of the U.K., originally
13 from France.

14 When we asked Mr. Prevost what sparked his suspicion,
15 what triggered his suspicion, that's when he related a story about
16 Mr. Moussaoui's interest in the aircraft doors, the fact that he
17 was surprised to learn that they couldn't be opened in flight, and
18 then that led into the discussion about Mr. Moussaoui's religion.

19 Q. Okay. Now, at that point also was there any indication to
20 you from Mr. Prevost whether or not Mr. Moussaoui was going to
21 seek additional training beyond the simulator training that was
22 scheduled?

23 A. There was. Mr. Prevost indicated that based on what
24 Mr. Moussaoui had observed the previous night in the simulator,
25 that he felt that more training might be required.

1 Q. All right. And what if anything did that tell you in terms
2 of how long that you had to work with in terms of your
3 investigation, in terms of possible criminality here?

4 A. Mr. Prevost related that it might be, he might require a week
5 or two more of training. Dating that from August 20th when
6 Mr. Moussaoui's last scheduled simulator session was, we could
7 project ahead another 14 days or so to the end of the first week
8 of September.

9 Q. Okay. Now, after you interviewed Mr. Prevost, could you tell
10 us if you made any decisions about how to proceed with your
11 investigation?

12 A. We did. Special Agent Weess and I consulted and we decided
13 that on the basis of the suspicious behavior discussed, provided
14 to us by the school, that we were going to arrest Mr. Moussaoui.

15 Q. Okay. And why was that? You were going to arrest him for
16 what?

17 A. We were going to arrest him on his visa waiver overstay.

18 Q. But were you focused upon that or were you focused on other
19 concerns?

20 A. We were obviously focused on learning more about his plans.
21 And we saw that as a way of preventing him from getting any
22 simulator training, any meaningful aircraft training before we had
23 the opportunity to talk to him and sort things out.

24 Q. Did you ever consider the fact that he could have just been a
25 rich guy, taking training?

1 A. We did. However, upon discussing that with Mr. Prevost,
2 Special Agent Weess and I concluded he really didn't fit any of
3 the categories. He certainly didn't seem like just a rich guy.
4 He wasn't interested in logical things that just a vanity pilot
5 would be interested in.

6 Q. And did you make any arrangements in case that, when you did
7 have contact with him, that if you had determined that he was a
8 legitimate person?

9 A. We did. We, Special Agent Weess and I discussed in advance,
10 and our plan was that if he was just a legitimate person and we
11 could find no further reason for suspicion, we were going to
12 intercede with the school and attempt to get some of his money
13 refunded for him, because we didn't want to spoil the training; if
14 it was no harm, no foul, we didn't want to interfere with his life
15 and cost him money.

16 Q. Okay. Now, after you made that decision to arrest
17 Mr. Moussaoui, could you tell us where it is that you went to
18 accomplish that?

19 A. We went to his hotel.

20 Q. What hotel was that?

21 A. The Residence Inn in Eagan.

22 Q. And could you tell us approximately what time on August the
23 16th you arrived there?

24 A. Around 4 p.m.

25 Q. And who arrived there with you? Were you alone or with other

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 830

1 agents?

2 A. No, we had two teams of two agents each. It was myself,
3 Special Agent Steve Nordmann of Immigration and Naturalization,
4 and then Special Agents Weess and Rapp.

5 Q. And when you arrived there, did you make any efforts to
6 determine which room it was that Mr. Moussaoui was staying in?

7 A. We did. We located the vehicle previously and we knew where
8 it was parked, but we didn't know what room he was staying in. So
9 Special Agents Weess and Rapp interviewed the hotel clerk and
10 asked what room Mr. Moussaoui was staying in.

11 Q. Which room did you determine that was?

12 A. 1414.

13 Q. Now, if I could show the witness Exhibit Numbers MN-500.1
14 through MN-500.7.

15 THE COURT: Any objection?

16 MR. MAC MAHON: No objection, Your Honor.

17 THE COURT: All right. Those are all in.

18 (Government's Exhibit Nos. MN-500.1 through MN-500.7
19 were received in evidence.)

20 BY MR. NOVAK:

21 Q. Maybe we can bring them up on the screen and we can take them
22 one at a time. It is 500.1.

23 Do you want to tell us, Agent Samit, what it is that
24 Exhibit MN-500.1 is that we're looking at right there?

25 A. That's the sign for the Residence Inn in Eagan.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 831

1 Q. And, by the way, I gather back in August of 2001 there was no
2 snow? You guys don't get snow in August there, do you?

3 A. No, sir, we don't.

4 MR. MAC MAHON: We will stipulate to that, Your Honor.

5 (Laughter.)

6 BY MR. NOVAK:

7 Q. Can we go to the next photo, MN-500.2. What are we looking
8 at there, Agent Samit?

9 A. That's the lobby, the office where the front desk is at the
10 motel.

11 Q. 500.3, please, what are we looking at there, Agent Samit?

12 A. We're looking at the parking spot where Mr. al-Attas's
13 vehicle was located, right there (indicating), and we're looking
14 at the entrance to room 1414, right there (indicating).

15 Q. Okay. 500.4, please. What are we looking at there?

16 A. That's just another view of the entrance to room 1414.

17 Q. And 500.5?

18 A. That's another angle, the sidewalk outside room 1414.

19 Q. 500.6?

20 A. Closeup of the door.

21 Q. 500.7?

22 A. Another view of the door.

23 Q. Okay. We can take those down.

24 Now, directing your attention to about 5:10 p.m. that
25 day, August 16th of 2001, could you tell us, had you set up a

1 surveillance of where you depicted Mr. al-Attas's car being?

2 A. We did. We positioned both vehicles so that we could view
3 Mr. al-Attas's car and Special Agents Weess and Rapp could also
4 view room 1414.

5 Q. Okay. Could you tell us what happened at that time? Who was
6 the first person that came out?

7 A. Mr. al-Attas was the first person to leave the room.

8 Q. Which -- what was his first name?

9 A. Hussein al-Attas.

10 Q. And could you tell us when Mr. al-Attas came out of the room,
11 where did he go?

12 A. He proceeded directly to that 1991 Subaru and to the driver's
13 side.

14 Q. And did anybody else come out after him?

15 A. After a short delay, a second person came out that we
16 subsequently identified as Mr. Moussaoui.

17 Q. And when Mr. Moussaoui -- when you talk about a short delay,
18 how much longer are we talking about?

19 A. Probably 45 seconds.

20 Q. The person that you identified as Mr. Moussaoui, is he here
21 in the courtroom today?

22 A. He is.

23 Q. Could you identify him, please?

24 A. He is sitting right there (indicating).

25 MR. NOVAK: For the record the witness has identified

1 the defendant, please.

2 THE COURT: Any objection?

3 MR. MAC MAHON: No objection, Your Honor.

4 THE COURT: All right. The record will so reflect.

5 BY MR. NOVAK:

6 Q. Now, when Mr. al-Attas came out of the room, can you tell us
7 what it is that occurred?

8 A. Mr. al-Attas came out of the room, went to the driver's side
9 of the vehicle and got in, at which point we moved in and blocked
10 his vehicle and asked him to step out of the vehicle.

11 Q. All right. And this is before Mr. Moussaoui had come out of
12 the room?

13 A. Yes, sir.

14 Q. And, by the way, what did you learn about Mr. al-Attas in
15 terms of his nationality and such at that time?

16 A. When we interviewed him subsequently we learned he was a
17 Yemeni citizen and a resident of Saudi Arabia.

18 Q. And he had traveled to the United States on what kind of
19 visa?

20 A. A student visa.

21 Q. And that's different than the visa waiver program; is that
22 right?

23 A. Yes, sir.

24 Q. What's a student visa allow you to do?

25 A. A student visa allows you to remain in the United States for

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 834

1 the duration of the time that you are studying at an accredited
2 university.

3 Q. Now, at that time when you stopped Mr. al-Attas, did you
4 arrest him then?

5 A. We did not.

6 Q. Okay. What did you do with him?

7 A. We asked Mr. al-Attas to step out of the vehicle, which he
8 did. We took him away from the vehicle and gave him a pat-down
9 search, quickly determined he did not have any weapons.

10 Q. Could you tell us what is a pat-down search?

11 A. A pat-down search is a law enforcement search that agents and
12 police officers under the law are allowed to conduct to ensure
13 that the person that they are dealing with cannot access any
14 dangerous items, weapons of any kind.

15 Q. So you are patting down, are you patting down simply for
16 weapons or looking for other evidence at the same time?

17 A. We're looking for weapons at that point.

18 Q. It is just limited to that?

19 A. Dangerous items, yes, sir.

20 Q. Now, after you did the pat-down on Mr. al-Attas, how much
21 longer was it until Mr. Moussaoui came out?

22 A. Probably within 15 seconds.

23 Q. And I would like to show the witness Exhibit GX-2, please,
24 which is previously admitted. I think it is on the screen there,
25 Agent Samit. That's fine. Do you recognize that photograph?

1 A. I do.

2 Q. What does that photograph depict?

3 A. That's Mr. Moussaoui's appearance on August 16th, 2001.

4 Q. So he looked a little different then than he does today; is
5 that right?

6 A. Yes.

7 Q. What is the nature of the difference between then and now?

8 MR. MAC MAHON: Your Honor, the jury can see the
9 difference between the two.

10 THE COURT: I think it is cumulative too. It has
11 already been asked of another witness.

12 MR. NOVAK: That's fine.

13 BY MR. NOVAK:

14 Q. Can you tell us, do you recall how Mr. Moussaoui was dressed
15 at that time?

16 A. He was dressed casually, contemporary American clothes, he
17 had cargo pants on, a T-shirt, leather jacket, and a ball cap.

18 Q. Could you tell us what happened? Did you approach
19 Mr. Moussaoui?

20 A. I did. My first thought was he looks just like an American.
21 But having seen him come out of room 1414, we reasoned it was him.
22 And Special Agent Nordmann and myself approached Mr. Moussaoui.

23 Q. Mr. Nordmann was the other INS agent; is that correct?

24 A. That's correct.

25 Q. When you and Agent Nordmann stopped or approached

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 836

1 Mr. Moussaoui, can you tell us what happened next?

2 A. We identified ourselves as federal agents and informed him
3 that he had an immigration issue and that we needed to discuss it
4 with him.

5 Q. And what if any response did you receive from Mr. Moussaoui?

6 A. Mr. Moussaoui immediately said he had some expensive flight
7 training he needed to get to and that he couldn't stop to talk.

8 Q. And so what happened?

9 A. We informed him that this was important and it was pressing
10 and that he needed to stay and talk to us.

11 Q. All right. What happened after that?

12 A. I asked Mr. Moussaoui for identification and also that he
13 allow me to look in his bag, again, a search pursuant to the
14 pat-down just to ensure there were no weapons or dangerous items.

15 Q. Okay.

16 A. Mr. Moussaoui presented me with a passport case and his bag.

17 Q. Okay. Could we show the witness, first of all, Exhibit
18 MN-600.2, please.

19 THE COURT: Any objection to that exhibit?

20 MR. MAC MAHON: No objection, Your Honor.

21 THE COURT: All right. It is in.

22 (Government's Exhibit No. MN-600.2 was received in
23 evidence.)

24 BY MR. NOVAK:

25 Q. We also have it on the screen. Agent Samit, I am going to

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 837

1 ask you to hold up Exhibit MN-600.2. Can you tell us what it is?

2 A. Yes, sir. It is the passport case that Mr. Moussaoui handed
3 me.

4 Q. Now, was there anything inside the passport case?

5 A. There was. There was a French passport.

6 Q. I am going to ask you, do you have Exhibit MN-600.1, which we
7 would offer?

8 THE COURT: Any objection?

9 MR. MAC MAHON: No. I thought I already said no
10 objection.

11 THE COURT: 2 was the case.

12 MR. MAC MAHON: No objection, Your Honor.

13 THE COURT: 1 is the passport. It is in.

14 (Government's Exhibit No. MN-600.1 was received in
15 evidence.)

16 BY MR. NOVAK:

17 Q. What is that?

18 A. This is Mr. Moussaoui's French passport.

19 Q. Is that what he showed to you?

20 A. This was in the case, yes, sir, and I looked at it.

21 Q. Other than the passport, did he show you anything else?

22 A. Also in there was an I-94W form.

23 Q. If we can show the witness Exhibit MN-635.

24 THE COURT: Any objection?

25 MR. MAC MAHON: No, Your Honor.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 838

1 THE COURT: All right, it is in.

2 (Government's Exhibit No. MN-635 was received in
3 evidence.)

4 BY MR. NOVAK:

5 Q. Do you have that there? We will just bring it on the screen
6 there and if you can just tell us, what is that?

7 A. That's Mr. Moussaoui's I-94W form.

8 Q. Okay. Does that relate to that visa waiver program that you
9 were talking about?

10 A. It does.

11 Q. And stamped -- first of all, do you see his name on there?

12 A. I do.

13 Q. And stamped on there, is there any indication when it was
14 that he entered the country?

15 A. February 23rd, 2001.

16 Q. And does it have the expiration date stamped on there, when
17 he has got to leave this country?

18 A. It does. The expiration date or the departure date is
19 actually larger than the entry, and it is May 2nd -- May 22, 2001.

20 Q. We can put that aside. In addition to those items. Did
21 Mr. Moussaoui show you a driver's license from any country?

22 A. There was a driver's license from the United Kingdom also in
23 that case.

24 Q. If we can show the witness Exhibit MN-623, please.

25 THE COURT: Any objection?

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 839

1 MR. MAC MAHON: No objection.

2 THE COURT: It is in.

3 (Government's Exhibit No. MN-623 was received in
4 evidence.)

5 BY MR. NOVAK:

6 Q. We can bring it on the screen then, if that's okay. Do you
7 recognize that item, Agent Samit?

8 A. Yes, sir.

9 Q. What is that item?

10 A. That is a United Kingdom driver's license in Mr. Moussaoui's
11 name, and it bears his photo.

12 Q. Does it reveal also his age on there, as well, his date of
13 birth?

14 A. It does. His date of birth, his address.

15 Q. That date of birth being 5/30/68?

16 A. Yes, sir.

17 Q. And then what is the address that's provided on that driver's
18 license?

19 A. 23A Lambert Road in London.

20 Q. If we can put that aside, please. Additionally did
21 Mr. Moussaoui present you any type of financial document?

22 A. Also in that passport case was a statement from Arvest Bank
23 in Norman, Oklahoma.

24 Q. If we can show the witness Exhibit Number MN-639.4, which we
25 would offer.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 840

1 THE COURT: Any objection?

2 MR. MAC MAHON: No objection, Your Honor.

3 THE COURT: All right. 639.4 is in.

4 (Government's Exhibit No. MN-639.4 was received in
5 evidence.)

6 BY MR. NOVAK:

7 Q. Perhaps if we can bring it on the screen then.

8 Can you tell us what it is we're looking at there, Agent
9 Samit?

10 A. That's a deposit agreement, upon the opening of a bank
11 account in Mr. Moussaoui's name from Arvest Bank, Norman,
12 Oklahoma.

13 Q. And can we zoom in there to the top there a little bit?

14 And does that, did that document indicate to you what
15 the initial opening deposit amount was?

16 A. It does, sir, right here, in the amount of \$32,000.

17 Q. All right. And did it also identify an address for
18 Mr. Moussaoui?

19 A. It does.

20 Q. What is the address, please?

21 A. 1950 Goddard Avenue in Norman, Oklahoma.

22 Q. Thank you. We can put that down. By the way, those items,
23 the passport, the driver's license, the I-94 form and the bank
24 statement, where were they physically located when you received
25 those?

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 841

1 A. They were physically located within that passport case.

2 Q. Okay. Now, after Mr. Moussaoui showed you those items, what
3 is it -- what happened next?

4 A. We informed him that on the basis of his immigration problem,
5 we believed that he was in the United States illegally, that he
6 had stayed past his departure date.

7 Q. What was Mr. Moussaoui's response to that?

8 A. His response was that was not true, that was not correct, and
9 that, in fact, he had received, he had applied for and received an
10 extension that would have allowed him to stay in the United States
11 for longer.

12 Q. All right. Any further discussions about his need to attend
13 flight training?

14 A. He did. He mentioned it again, that he wanted to clear
15 things up very quickly because he had to get to flight training.

16 Q. All right. Did he tell you where these papers were that he
17 had that could clear this up?

18 A. He did. He said he had the documents in his hotel room.

19 Q. All right. So what did you do?

20 A. He invited us back to the hotel room to retrieve the
21 documents and Special Agent Nordmann and myself went with him.

22 Q. Is that room 1414?

23 A. Yes, sir.

24 Q. Could you tell us who all went into 1414 other than
25 yourselves and Agent Nordmann?

1 A. No one else.

2 Q. Well, how about Mr. Moussaoui?

3 A. Oh, right. Mr. Moussaoui opened the door for us and then --

4 Q. Did he have a key?

5 A. He did.

6 Q. Can you tell us when you walked into the room what it is that
7 you observed?

8 A. It was a larger hotel room suite with two beds, a
9 kitchenette, and a seating area.

10 Q. All right. And could you tell us which side of the room it
11 was that Mr. Moussaoui headed to then?

12 A. He headed to the left side of the room.

13 Q. Could you tell us what happened when you went over to the
14 left -- did you do anything for your own safety's sake when you
15 went in there?

16 A. We did. As we moved through the room, we kept Mr. Moussaoui
17 in sight. We stayed close to him, and we also ensured that any
18 areas he touched where he went, he wasn't attempting to access a
19 weapon.

20 Q. Now, had he consented to your entry into the hotel room?

21 A. Yes, sir, he did.

22 Q. If he had not consented into the hotel room, would you have
23 been able to go in there?

24 A. No.

25 Q. And why is that?

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 843

1 A. Under the Fourth Amendment, we don't have the right to search
2 without a warrant or his consent.

3 Q. Okay. Now, in this instance, though, he did consent; is that
4 right?

5 A. He did, yes.

6 Q. Could you tell us what happened then? You get in the room
7 and you said he headed to the left side. What happened next?

8 A. In the little kitchen area, the little kitchenette, there
9 were piled a number of documents. Mr. Moussaoui began going
10 through the pile of documents and shortly retrieved one of those.

11 Q. If we can show the witness Exhibit MN-636, please, which we
12 would offer into evidence.

13 THE COURT: Any objection?

14 MR. MAC MAHON: No objection, Your Honor.

15 THE COURT: It is in.

16 (Government's Exhibit No. MN-636 was received in
17 evidence.)

18 BY MR. NOVAK:

19 Q. Perhaps we can put it on the screen. Maybe that would be the
20 easiest thing. If we can zip in there a little closer, can you
21 tell us what it is there, Agent Samit?

22 A. Yes, sir. This is his request to adjust status form. It is
23 an acknowledgment that Immigration had received a request to
24 adjust status from Mr. Moussaoui.

25 Q. For his visa waiver program?

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 844

1 A. Yes, sir, that's correct.

2 Q. Now, are you able to change that status?

3 A. No.

4 MR. MAC MAHON: Your Honor, we concede he was out of
5 status, properly arrested for an immigration violation.

6 MR. NOVAK: That's not the point.

7 THE COURT: Well, I am going to overrule the objection
8 at this point. I assume this is going someplace.

9 MR. NOVAK: Right.

10 BY MR. NOVAK:

11 Q. Did Mr. Moussaoui indicate to you whether that document
12 allowed him to stay in the country?

13 A. He did. In fact, he was very insistent that that document
14 allowed him to remain in the United States.

15 Q. And was that correct?

16 A. No. It was not.

17 Q. All right. Now, as you went through these documents with
18 him, what else occurred then in the room?

19 A. Special Agent Nordmann reviewed the document, made the final
20 decision that Mr. Moussaoui was not in status, he informed him of
21 that, and we placed Mr. Moussaoui under arrest.

22 Q. Okay. Now, at the time that you arrested him, did you notice
23 if Mr. Moussaoui had any other bags or any other items that were
24 in the hotel room on the left side?

25 A. He did. The room was full of household goods, of clothing,

1 of bags, backpacks, suitcases, and I noticed a considerable
2 quantity of clothing and other materials like that on the left
3 side of the room.

4 Q. Okay. And at that time did you search those items?

5 A. No, we did not.

6 Q. Okay. Why not?

7 A. We asked Mr. Moussaoui for permission to search. He became
8 very upset at being informed he was being placed under arrest. He
9 again noted to us that he had expensive flight training, urgent
10 flight training he needed to attend. And I suggested to him that
11 maybe there was a reply to that, that he had received --

12 Q. Reply to what?

13 A. To his request to adjust status.

14 Q. Okay.

15 A. That there might be other documents which would show that he
16 was, in fact, in status.

17 Q. And what was his response to that?

18 A. His response was no, you may not search my things, you can't
19 go through anything else. He was very insistent that we not do
20 that.

21 Q. Why didn't you search them anyhow?

22 A. Because we're not allowed to do that under the law.

23 Mr. Moussaoui was in custody. He had been patted down. He was,
24 he was subsequently searched, his person was searched, but under
25 the Fourth Amendment we're not allowed to search his room.

1 Q. Okay. Now, you said that you patted Mr. Moussaoui down. And
2 what if anything did you find on his person?

3 A. In his left pocket I found a dagger.

4 Q. All right. If we can show the Exhibit MN-501, please.

5 THE COURT: Any objection?

6 MR. MAC MAHON: No, Your Honor.

7 THE COURT: All right.

8 MR. NOVAK: I think we have a photograph, MN-501P, which
9 we can bring up while the agent is looking at the dagger.

10 THE COURT: All right. And do you want the photograph
11 made a part of the evidence in this case?

12 MR. NOVAK: Please.

13 THE COURT: 501P is the photograph. Any objection?

14 MR. MAC MAHON: No, Your Honor.

15 THE COURT: All right.

16 (Government's Exhibit Nos. MN-501 and MN-501P were
17 received in evidence.)

18 BY MR. NOVAK:

19 Q. Can you hold up Exhibit MN-501 and tell the jury what it is
20 you have?

21 A. This is the weapon I retrieved from the left front pocket of
22 Mr. Moussaoui.

23 Q. Could you open that up? Now, could you tell us, that's
24 obviously got a blade on it; is that right?

25 A. It does, yes, sir.

1 MR. NOVAK: Judge, I think Mr. Wood has a ruler. Can we
2 measure what the length of that blade is, please?

3 THE COURT: Do you want that shown to the jury more
4 closely? I'm not sure I want to -- how sharp is that blade?

5 THE WITNESS: It's pretty sharp, Your Honor.

6 MR. NOVAK: May Agent Samit step down?

7 THE COURT: No, I will have Mr. Wood do that. You can
8 open it when you get to the jury. I don't think I want you all
9 handling that, unless you have to.

10 Thank you, Mr. Wood.

11 MR. NOVAK: May I ask the agent to measure the length of
12 the blade then, Your Honor?

13 THE COURT: Yes.

14 THE WITNESS: The blade is two inches long.

15 BY MR. NOVAK:

16 Q. Now, could you tell us, Agent Samit, is there any use for
17 pilots to have a dagger on their person?

18 A. No.

19 MR. MAC MAHON: Your Honor, I'd object to that.
20 Moussaoui's not a pilot anyway, and it's arguing with the
21 witness --

22 THE COURT: That objection, without a long speech, I
23 will sustain I think at this point. Let's move this along.

24 BY MR. NOVAK:

25 Q. Now, in addition to that dagger, did you seize anything else

1 off of Mr. Moussaoui's person?

2 A. We did.

3 Q. What was that?

4 A. He was wearing a money belt.

5 Q. Okay. And did it have any money in it?

6 A. It did. It contained a little over \$3,000 in cash.

7 Q. Okay. Did you seize that?

8 A. We did.

9 Q. After you seized the dagger and the \$3,000 in cash, could you
10 tell us how did Mr. Moussaoui react?

11 A. That's when he became upset and that's when we had the
12 discussion about -- the inquiry about perhaps the document was
13 elsewhere in the room.

14 Q. Okay. And that's when he denied you your ability to search;
15 is that right?

16 A. Yes, sir.

17 Q. Now, where was this pat-down with Mr. Moussaoui occurring at?

18 A. It occurred in the kitchen, kitchenette area.

19 Q. And then after you found those items, what did you do with
20 Mr. Moussaoui?

21 A. We took him outside.

22 Q. Okay. Where did you take him to?

23 A. We placed him in Special Agent Nordmann's INS vehicle.

24 Q. Okay. Now, where was Mr. al-Attas while this was going on?

25 A. Mr. al-Attas was outside with Special Agent Weess and Rapp.

1 Q. Okay. And when you exited the room with Mr. Moussaoui to put
2 him into the vehicle, did you have an occasion to see if Agent
3 Rapp was conducting a search of the Subaru?

4 A. In fact, he was. They were finishing up a search, consent
5 search of Mr. al-Attas's vehicle.

6 Q. And what if anything did you observe then?

7 A. Just as we brought Mr. Moussaoui out of the room, Special
8 Agent Rapp held up a knife that he had located on the passenger
9 side of that vehicle.

10 Q. Could we show the witness Exhibit MN-502, which we would
11 offer, as well as a photo that we have of the same item, MN-502P.

12 THE COURT: Any objection?

13 MR. MAC MAHON: No objection, Your Honor.

14 THE COURT: All right.

15 (Government's Exhibit Nos. MN-502 and MN-502P were
16 received in evidence.)

17 BY MR. NOVAK:

18 Q. Agent Samit, I am asking you to look at 502 and then the
19 photograph, 502P. Can you tell us what that item is?

20 A. It is a Sheffield lock-blade knife.

21 Q. And where do you recognize that item from?

22 A. This is the knife that Special Agent Rapp held up.

23 Q. Where was it that -- you observed him seize that; is that
24 correct?

25 A. I did. Special Agent Rapp reached in, pulled this up off the

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 850

1 floor of the vehicle, turned to Mr. al-Attas and asked him if this
2 was his. Mr. Moussaoui, who was with us, said "no, it is mine."

3 Q. And what side of the vehicle was it that that came from?

4 A. The passenger's side.

5 MR. NOVAK: Okay. Could we ask Mr. Wood to be kind
6 enough to do the same thing, Your Honor, and show it to the jury?

7 THE COURT: Yeah. Am I correct this is a retractable,
8 or a blade that --

9 THE WITNESS: Yes, Your Honor, it is a folding blade
10 knife.

11 THE COURT: Whereas the other did not fold?

12 THE WITNESS: That's correct.

13 THE COURT: Go ahead, Mr. Wood.

14 BY MR. NOVAK:

15 Q. Agent Samit, I am also going to ask you to measure what the
16 length of that blade is for us, please.

17 A. The blade on this knife is three inches long.

18 Q. Thank you, Agent Samit. You can put the ruler down. You can
19 put the knife aside as well.

20 Now, could you tell us, after that item was seized,
21 could you tell us what it is that you all did with Mr. Moussaoui?

22 A. We placed him in the back of Special Agent Nordmann's car and
23 we seat-belted him in.

24 Q. What occurred at that time?

25 A. He became very upset, visibly upset, again mentioning the

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 851

1 need to get to flight training.

2 Q. Okay. And what did you do then?

3 A. I attempted to talk to him at that point, just to kind of
4 reassure him, calm him down, tell him that we could talk about
5 this. I informed him at that time that I was a pilot and tried to
6 engage him in a discussion of aviation.

7 Q. At any point was there any interaction at that point between
8 Mr. Moussaoui and Mr. al-Attas?

9 A. Mr. Moussaoui tried to say something to Mr. al-Attas, but we
10 asked him not to.

11 Q. Okay. And so nothing occurred then?

12 A. So nothing, there was no communication.

13 Q. What did you do with Mr. Moussaoui then?

14 A. Special Agents Nordmann and Rapp transported Mr. Moussaoui to
15 Immigration, to their office.

16 Q. Where is Immigration located?

17 A. In Bloomington, Minnesota, another suburb, southern suburb.

18 Q. Of Minneapolis?

19 A. Of the Twin Cities, yes, sir.

20 Q. And what did you and Agent Weess do?

21 A. Special Agent Weess and I accompanied Mr. al-Attas back into
22 the room because Mr. al-Attas was going to produce some documents
23 for Agent Weess that would prove that he was in status, he was
24 legally in the United States.

25 Q. And during this time is Mr. al-Attas in custody, is he

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 852

1 handcuffed or anything like that?

2 A. He is not.

3 Q. Can you tell us what occurred then?

4 A. We went back into the room, Mr. al-Attas opened the door, we
5 went into the room with him and Special Agent Weess. And I again,
6 taking precautions, stayed close by Mr. al-Attas. We conducted a
7 quick review of anything that Mr. al-Attas -- a quick search of
8 anything Mr. al-Attas wanted to access for weapons and dangerous
9 items, until Mr. al-Attas was able to retrieve documents which
10 proved to Special Agent Weess that he was legally in the United
11 States.

12 Q. And what side of the room was it that Mr. al-Attas directed
13 you to in that regard?

14 A. To the right side.

15 Q. Did he make any comment about whose items were on the left
16 side?

17 A. He did. He indicated Mr. Moussaoui's items were on the left.

18 Q. So you all moved to the right side of the room then?

19 A. We did.

20 Q. Did you do anything with Mr. Moussaoui's stuff on the left
21 side?

22 A. We did not.

23 Q. Could you tell us what you did on the right side then with
24 Mr. al-Attas?

25 A. Once he accessed the document that proved he was, in fact,

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 853

1 legally in the United States, to Special Agent Weess's
2 satisfaction, we asked Mr. al-Attas if he would consent to a
3 search of his belongings.

4 Q. Before we get to that search, what exactly was it that Mr.
5 al-Attas showed you all that indicated that he was lawfully in the
6 United States?

7 A. He showed us a transcript in his name that had indicated he
8 was in classes through that year, and he informed us that he was
9 planning on registering for classes for the coming semester as
10 well.

11 Q. And did you all find that to be acceptable then or not?

12 A. Special Agent Weess did, yes.

13 Q. Would you later on find out that that was not an accurate
14 transcript?

15 A. We would. We would later learn he was lying and falsified
16 the transcript.

17 Q. Now, after he showed you a transcript and you decided -- at
18 that point, though, you decided he was lawfully here; is that
19 right?

20 A. Yes, sir.

21 Q. So you didn't arrest him; is that right?

22 A. That's correct.

23 Q. So can you tell us what occurred then with Mr. al-Attas?

24 A. Mr. al-Attas consented to be interviewed by myself. And he
25 and I sat down and conducted an interview while Special Agent

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 854

1 Weess executed the consent search of his belongings.

2 Q. Consent search of what?

3 A. Of Mr. al-Attas's belongings.

4 Q. Did you ask Mr. al-Attas to consent search for

5 Mr. Moussaoui's items that were there?

6 A. No.

7 Q. Why is that?

8 A. Because he indicated that they were Mr. Moussaoui's items.

9 Mr. Moussaoui had indicated they were Mr. Moussaoui's items. And
10 he had denied us permission to search his items.

11 Q. So Mr. al-Attas didn't have the lawful ability to do it?

12 A. Yes, sir, that's correct.

13 Q. And so could you tell us, did -- you began interviewing
14 Mr. Moussaoui, is that right?

15 A. Mr. al-Attas.

16 Q. Or Mr. al-Attas, excuse me, Mr. al-Attas?

17 A. Yes, sir.

18 Q. Can you tell us what it is Mr. al-Attas told you at that
19 time?

20 A. Mr. al-Attas described his own background and described his
21 reasons for being in the United States.

22 Q. Which were what? Tell us what those were.

23 A. He was a Yemeni citizen, born in Saudi Arabia to Yemeni
24 parents, he had older brothers who were engineers. He indicated
25 that he had come to the United States for the purpose of getting

1 his Bachelor's degree, attending university, and that he was
2 currently doing that at the University of Oklahoma.

3 Q. Did he tell you, did he provide for you an address where he
4 was residing at that time?

5 A. He did.

6 Q. And what address was that?

7 A. 209A Wadsack in Norman, Oklahoma.

8 Q. And that address of 209A Wadsack Drive in Norman, was that
9 the first time you had heard of that address?

10 A. Yes, sir.

11 Q. Did he also give you a telephone number for that address?

12 A. He did.

13 Q. Off the top of your head, do you remember it?

14 A. I don't. It was a 405 area code.

15 Q. All right. Did he tell you what his goal was at -- down at
16 the University of Oklahoma?

17 A. He said that he eventually wanted to obtain at least his
18 Bachelor's degree in mathematics.

19 Q. All right. Did he indicate to you, did he describe himself
20 as an American or what?

21 A. No.

22 Q. Or any thoughts about that?

23 A. No, he didn't. In contrast, in my experience to a lot of
24 students, his future plans did not include remaining in the United
25 States. In fact, he said that he wanted to finish his degree and

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 856

1 that he did not consider himself an American, and he did not mix
2 in American culture at all.

3 Q. All right. Did he tell you where it is that he had first
4 met, or when it was that he had first met Mr. Moussaoui?

5 A. He said he met him a few months previous.

6 Q. Did he tell you where he had met him at?

7 A. He did, at the Anoor Mosque in Norman, Oklahoma.

8 Q. Did he tell you if their relationship had changed in any way,
9 approximately one month before you arrested Mr. Moussaoui?

10 A. He did, that a month prior they had become roommates.

11 Q. And do you want to explain to the jurors how it is -- what it
12 is Mr. al-Attas told you about that?

13 A. Mr. al-Attas stated that his previous roommate had gotten
14 married and asked him to move out because of that. So he
15 approached a friend, Mukram Ali, another student at the University
16 of Oklahoma. When he approached Mr. Ali with a request that he be
17 allowed to live with him, Mr. Ali told him that Mr. Moussaoui had
18 similarly made the same request and that it was okay, but all
19 three of them would be roommates.

20 Q. Did he describe for you Mr. Moussaoui's religious practices?

21 A. He did.

22 Q. Could you tell us what those were?

23 A. He characterized him as a religious Muslim.

24 Q. Did he talk to you about any pronouncements that
25 Mr. Moussaoui had made about Israel or Palestine or anything about

1 that?

2 A. He did. He informed us Mr. Moussaoui did not like the
3 Israelis, he was very unhappy that -- what the Israelis were doing
4 and still receiving favorable press in the United States for it.

5 Q. Did Mr. al-Attas repeat to you any discussions that, or any
6 statements that Mr. Moussaoui had said to him about the
7 mistreatments of Muslims around the world?

8 A. He did. In fact, Mr. al-Attas informed us that
9 Mr. Moussaoui, one of the things that was a constant theme in his
10 discussion with Mr. al-Attas and with others, was that it is the
11 duty of Muslims to understand the suffering of other Muslims all
12 over the world.

13 Q. All right. And were there any discussions that Mr. al-Attas
14 repeated to you about Mr. Moussaoui's views of -- about whether it
15 is okay to harm civilians?

16 A. Yes. He said that in defense of Muslims, it is okay to harm
17 civilians.

18 Q. Did you ask Mr. al-Attas any further questions about whether
19 anybody could be harmed, according to Mr. Moussaoui's statements?

20 A. We did.

21 Q. Do you want to explain to us what it is that Mr. al-Attas
22 told you?

23 A. He told us that in order -- that it would be perfectly
24 acceptable to harm civilians in a Jihad. He said that if
25 Mr. Moussaoui believed that someone was an unbeliever, a

1 non-Muslim, was harming Muslims, that he would work against them.

2 He discussed Mr. Moussaoui's statements that it was the
3 duty of Muslims to train to fight and, in fact, he even quoted a
4 prophet. He gave us the name of a prophet, Omar Ibn Khattab, the
5 companion prophet, who was a person who said that you should train
6 your children to swim, to ride, to fight the unbelievers.

7 Q. All right. Back in August of 2001, did you know what a
8 fatwah was?

9 A. I did.

10 Q. Do you want to tell us what you believed a fatwah to be?

11 A. A fatwah is a religious pronouncement from a Muslim scholar,
12 a cleric.

13 Q. And did you have any discussions with Mr. al-Attas about
14 fatwahs?

15 A. We did. We asked if there were any fatwahs that
16 Mr. Moussaoui subscribed to or had ever discussed. And he said
17 that he couldn't name any specifically but that he knew that
18 Mr. Moussaoui did read fatwahs, that he accessed them on-line, in
19 fact.

20 Q. Did you have any discussions with Mr. al-Attas about
21 Mr. Moussaoui's previous flight training?

22 A. We did.

23 Q. Could you tell the folks what that was?

24 A. Mr. al-Attas told us that he was taking flight training in
25 Norman, Oklahoma, that he had been doing that for quite some time,

1 and that he had come to Minnesota to gain additional flight
2 training.

3 Q. Did he tell you when it is that they had arrived in
4 Minnesota?

5 A. He did.

6 Q. When was that?

7 A. That previous weekend.

8 Q. And which would have been what day?

9 A. The 11th and 12th.

10 Q. Okay. And did he tell you when it is that he, Mr. al-Attas,
11 planned to go home?

12 A. He said that Mr. Moussaoui had mentioned to him that there
13 would possibly be a requirement for additional flight training and
14 that they would need to stay later.

15 Q. All right. And did you have any discussions about who was
16 paying for this trip from Oklahoma up to Minnesota?

17 A. We asked Mr. al-Attas that. He said that originally they had
18 agreed to split the costs, but that after the trip began,
19 Mr. Moussaoui decided that he would pay for the lodging and the
20 fuel and that Mr. al-Attas would only have to pay for his own
21 food, his meals.

22 Q. Now, did you question Mr. al-Attas about the source of
23 Mr. Moussaoui's money or how much money he had?

24 A. We did.

25 Q. What was that?

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 860

1 A. Mr. al-Attas told us that he had seen Mr. Moussaoui in
2 possession of over \$10,000, and that he was aware he had received
3 it from overseas but that he had no additional details.

4 Q. Did you try to get more details about that money?

5 A. We did. We asked Mr. al-Attas if he had received it, you
6 know, what mechanism by which he had received it, and Mr. al-Attas
7 did not know.

8 Q. All right. Did he tell you whether or not Mr. Moussaoui
9 discussed such things or not?

10 A. He did. Whenever we asked Mr. al-Attas questions, he was
11 unable to answer, he cited Mr. Moussaoui's extreme secretiveness
12 and, in fact, he told us that when we identified Mr. Moussaoui to
13 him by that name, that that was the first he had ever heard of it.
14 He didn't even know, claimed not to even know Mr. Moussaoui's
15 name.

16 Q. What name did Mr. al-Attas tell you that he knew
17 Mr. Moussaoui by?

18 A. He stated that he referred to him as Shaqil.

19 Q. Okay. Did he indicate to you how much longer he expected
20 Mr. Moussaoui to be in Minneapolis to get that flight training?

21 A. He said that Mr. Moussaoui had told him that they were
22 probably going to have to stay another one to two weeks, but that
23 they were going to move to a cheaper hotel because of the
24 additional stay.

25 Q. Did Mr. al-Attas tell you what their plans were after being

1 in the Twin Cities up there?

2 A. Mr. al-Attas said that they were looking to travel around the
3 United States.

4 Q. Did he give you particular locations that he said they
5 intended to go to?

6 A. He did, New York and Denver.

7 Q. Okay. Did he tell you why they were going to go to New York
8 and to Denver?

9 A. New York to see the sights and Denver because Mr. Moussaoui
10 told him that there was some additional business with United
11 Airlines that he needed to take care of.

12 Q. Now, while you were having this conversation with Mr.
13 al-Attas, did either you or Agent Weess come across a will?

14 A. I came across a will.

15 Q. Okay. And where did you find that will?

16 A. That was sitting on the table between Mr. al-Attas and
17 myself.

18 Q. And whose will was that?

19 A. Mr. al-Attas informed me that it was his.

20 Q. And could you describe for us what the will looked like and
21 what it --

22 A. It was in a brown mailing envelope, very new envelope, it
23 hadn't been worn. Inside the envelope were two sheets -- was a
24 sheet of notebook paper. Upon pulling the paper out of the
25 envelope, I asked Mr. al-Attas, is this yours? He answered that

1 it was. Upon pulling the sheet out, I could see that there was
2 writing in Arabic on the sheet.

3 Q. All right. The prompting of that -- did that will prompt you
4 to have any further questions then with Mr. al-Attas?

5 A. It did. He informed me that it was his last will and
6 testament. I asked him why he had such a document. He told me it
7 was common for Muslims to make that up before going on a journey,
8 to carry a document like that.

9 I asked him then if he was planning on going on Jihad.

10 Q. Do you want to explain to us what the word "Jihad" means?

11 A. Jihad is a word that means holy war. It is frequently what
12 terrorists and Muslim extremists will use to justify, to tell
13 people that they are going to embark on some campaign, some
14 fighting of some kind.

15 Q. When you asked that question of Mr. al-Attas, what did he
16 respond to you about Jihad?

17 A. He paused. He said "Jihad," he repeated that. And I: Said
18 yes, it means holy war. He laughed and said: I know what it
19 means. And he said: Yes, yes, I would consider going on Jihad
20 some day, but right now, right now I have to finish school.

21 Q. Okay. Now, as a result of the information that you received
22 from Mr. al-Attas and the previous information that you had
23 received from the flight school, Mr. Prevost and such, do you have
24 any view of what Mr. Moussaoui's religious views were then?

25 A. Yes, sir.

1 Q. And what was that?

2 A. That he was at least an Islamic extremist who had espoused or
3 discussed violence.

4 Q. And now -- by the way, excuse me, when you were going through
5 Mr. al-Attas's items or Agent Weess was, did you all find a
6 Pakistan visa?

7 A. We found an application for a Pakistan visa.

8 Q. Okay. Do you want to tell us about that?

9 A. We, Special Agent Weess located an application for a visa to
10 enter Pakistan among Mr. al-Attas's effects, he stated that that
11 was his and that he was planning on going to Pakistan in the near
12 future.

13 Q. "He" being Mr. al-Attas?

14 A. Correct.

15 Q. Did he make any mention about whether the person that he knew
16 as Shaqil had helped him with that application?

17 A. He did. He told us that Shaqil, because he was experienced
18 and had traveled around the world, was assisting him in completing
19 that visa application.

20 Q. Now, while you were in the room with Mr. al-Attas, did you
21 receive a phone call from somebody about what to do with
22 Mr. Moussaoui's bags, the seven, eight bags that were on the left
23 side of the room?

24 A. Yes, sir, we did.

25 Q. What happened?

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 864

1 A. Upon learning, Mr. Moussaoui's learning that he was not going
2 to be returning to the hotel in the next few days, that he was
3 going to be under arrest, he directed that his items, that he gave
4 permission for his items to be removed back to the Immigration
5 office.

6 Q. Be removed, does that mean be searched or just to be
7 transported?

8 A. No, it just means to be transported.

9 Q. Okay. Now -- and did you do that?

10 A. We did, with Mr. al-Attas's help, we carried all of the items
11 which he identified as Mr. Moussaoui's out to the vehicle.

12 Q. All right. And were they ultimately then transported to the
13 INS building?

14 A. Yes, sir.

15 Q. And were they stored there?

16 A. They were.

17 Q. All right. Now, when you were with Mr. al-Attas, as you
18 testified already, he had indicated to you that he lived with
19 Mukram Ali and Mr. Moussaoui would stay there as well. Is that
20 right?

21 A. Yes, sir.

22 Q. And did you at any time ask Mr. al-Attas to consent to a
23 search of the address in Oklahoma, 209 Wadsack Road?

24 A. No, sir, we didn't.

25 Q. And can you tell us why it is that you did not do that?

1 A. Because it wasn't his apartment.

2 Q. "His" being whose?

3 A. It was not Mr. al-Attas's apartment.

4 Q. Whose apartment was it?

5 A. It was Mukram Ali's.

6 Q. Was there any other reason why you decided not to do that?

7 A. We didn't want to approach either Mr. al-Attas about it
8 because he had no standing, or Mr. Ali, for fear that if there
9 were items there, if there was evidence there, we didn't want it
10 to be destroyed.

11 Q. Now, when you got all the -- after you got all the bags of
12 Mr. Moussaoui to transport back to INS, what did you do with Mr.
13 al-Attas?

14 A. We left Mr. al-Attas in the hotel room.

15 Q. He was free to go; is that right?

16 A. Yes, sir.

17 Q. Did you make any requests for him to report at a later date?

18 A. We did. We requested that he report at 9 a.m. the next day,
19 and he agreed to do that.

20 Q. Okay. And where was he to report to?

21 A. To the Immigration and Naturalization Service office.

22 Q. All right. So did you leave the hotel then at that point?

23 A. We did.

24 Q. And where did you go to?

25 A. We returned to the Immigration office.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 866

1 Q. And who was at the Immigration office? This is the one in
2 Bloomington; is that right?

3 A. Yes, sir.

4 Q. Who was at that office when you got there?

5 A. Mr. Moussaoui was in custody there and had finished being
6 booked in. Special Agents Weess and Rapp were there and they had
7 supplied Mr. Moussaoui with dinner.

8 Q. Okay. What time was this? You are talking about dinner.

9 What time of the night now was it that you had come across
10 Mr. Moussaoui back at the INS office?

11 A. Probably a little after 7 p.m.

12 Q. Okay. And directing your attention to about 9:30 then, did
13 you have an occasion then to commence an interview with him?

14 A. We did. We conducted a further review of the items. We kind
15 of compared notes. We spoke with Special Agents Nordmann and Rapp
16 and around 9:30 we commenced an interview with Mr. Moussaoui.

17 Q. And before you started interviewing him, did you have an
18 occasion to give him what is commonly known as his Miranda rights?

19 A. Yes, sir.

20 Q. And were those rights in writing on a form or were they just
21 oral?

22 A. They were -- no, they were both oral and in writing on a
23 form, which both Special Agent Weess and myself signed after
24 Mr. Moussaoui.

25 Q. If we can show the witness Exhibit GX-2.1, please.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 867

1 THE COURT: Any objection?

2 MR. MAC MAHON: The waiver form, Your Honor?

3 THE COURT: Yeah.

4 MR. MAC MAHON: No objection.

5 THE COURT: All right.

6 MR. NOVAK: I offer it into evidence.

7 THE COURT: 2.1 is in.

8 (Government's Exhibit No. GX-2.1 was received in
9 evidence.)

10 BY MR. NOVAK:

11 Q. Could you tell us what it is we're looking at there, the
12 Exhibit GX-2.1, please?

13 A. This is the Immigration and Naturalization Service advice of
14 rights form.

15 Q. Okay. Is that signed by Mr. Moussaoui?

16 A. It is.

17 Q. And you have the date and the time as well; is that right?

18 A. That's correct.

19 Q. And it indicates to you that he was willing to make a
20 statement freely and voluntarily to you; is that right?

21 A. It indicates, yes, sir, it indicates to me that he had
22 received all those Miranda warnings above, that we read them to
23 him, he read them and then signed.

24 Q. Let me ask you this: Before you all gave the Miranda rights
25 on that form, do you know if he was given any administrative INS

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 868

1 warnings before then?

2 A. He was. As part of the booking process, Special Agent
3 Nordman supplied him with administrative advice of rights.

4 Q. Is there any difference between the INS rights and the
5 Miranda rights?

6 A. Under administrative proceedings for Immigration, although he
7 has a right to an attorney, Immigration doesn't pay for an
8 attorney in that case.

9 Q. All right. And in addition to the INS rights and the Miranda
10 warning rights -- which we can take down, by the way, thank you --
11 was there any discussion about his consular notification rights?

12 A. There was.

13 Q. Can you explain to the jurors what exactly, what are consular
14 notification rights?

15 A. The consular section is obviously a country's representative
16 in foreign countries as part of an embassy. When the FBI or
17 immigration arrests citizens of foreign countries, one of our
18 protocols is to give them the opportunity that their consular
19 section be notified, that the FBI or that Immigration has arrested
20 a citizen of your country, here is his name and his information.

21 Q. And is there a benefit to somebody who is arrested to
22 exercise those rights?

23 A. Absolutely.

24 Q. What is the benefit to them?

25 A. It allows them to receive any assistance that their country

1 is willing to give.

2 Q. And is there any downside for somebody to exercise those
3 rights?

4 MR. MAC MAHON: Your Honor, it is consular rights. His
5 opinion as to whether somebody might find them upsides or
6 downsides is not relevant. He didn't take them.

7 THE COURT: Well, I don't think that's a proper
8 objection. And I'm going to overrule it. Go ahead.

9 BY MR. NOVAK:

10 Q. Is there a downside of somebody exercising their consular
11 rights?

12 A. I can't think of a downside for a person who is not, who is
13 not known of by their, the host government as a criminal or
14 terrorist.

15 MR. MAC MAHON: I move to strike that answer, Your
16 Honor. He asked a broad question, whether it is an upside or
17 downside, and we get a conclusion instead of a yes or no.

18 THE COURT: I think this is an explanation for the
19 answer. I am going to overrule the objection. Go ahead.

20 BY MR. NOVAK:

21 Q. And if somebody -- well, strike that. I will just move on.

22 Now, after he was given all those various rights, did
23 Mr. Moussaoui -- did you begin interviewing Mr. Moussaoui?

24 A. We did. After Mr. Moussaoui refused his consular
25 notification, we began the interview.

1 Q. Okay. And who is the "we" that was interviewing him?

2 A. Special Agent Weess and myself, the same two signatories to
3 the advice of rights form.

4 Q. Before you started interviewing him, did you have any
5 discussions with him about the need to tell the truth?

6 A. We did. It was explained to Mr. Moussaoui that we were
7 federal agents, that we were discussing not just his immigration
8 status at this point but his reasons for being in the United
9 States and for asking for flight training, and we advised him of
10 the need to be able to tell the -- the need to tell the truth.

11 Q. And was Mr. Moussaoui cooperative at that time?

12 A. He was.

13 Q. Did you have further discussions about his need to get back
14 to his training?

15 A. He did. In fact, we cited that as key to helping us be able
16 to understand his reasons for being in the United States and
17 wanting flight training. He, again, repeated that he was very
18 eager to clear things up because of his flight training.

19 Q. Now, you interviewed him from 9:23 p.m. to approximately what
20 time?

21 A. A little bit after 11 p.m.

22 Q. And could you tell us, first of all, how it is that the
23 interview started and what if anything Mr. Moussaoui told you
24 about his view of immigration people?

25 A. Mr. Moussaoui explained some previous difficulty he had with

1 immigration in the U.K. and indicated to us for this reason he did
2 not trust immigration authorities.

3 Q. Now, could you tell us how it is that the interview then
4 began?

5 A. It began with our requesting that he lay out his background.

6 Q. Okay. And what did he tell you?

7 A. He told us that he was a French citizen, born in France, that
8 he had been educated in the United Kingdom and that he had lived
9 there for the last several years.

10 Q. Did he tell you when it was he had come to the United States?

11 A. He did. He confirmed for us that it was in February of 2001.

12 Q. Did he tell you why he had come to the United States?

13 A. Yes, sir.

14 Q. What did he say?

15 A. He stated that he had come to the United States to take
16 flight training to become a pilot.

17 Q. Did he tell you where he initially took that flight training?

18 A. He did.

19 Q. Where was that?

20 A. Airman Flight School in Norman, Oklahoma.

21 Q. Did he tell you the number of hours -- what type of training
22 that he had taken down in Norman, Oklahoma?

23 A. Yes, sir, he did.

24 Q. What kind of training was that?

25 A. He had taken training pursuant to obtaining his private

1 pilot's license.

2 Q. Okay. On what type of plane?

3 A. Cessna 150.

4 Q. The kind of planes you used to fly?

5 A. Yes, sir.

6 Q. Did he report to you approximately how many hours he had had
7 down there?

8 A. He did.

9 Q. How many hours?

10 A. A little bit more than 50, 55, 56.

11 Q. Did he tell you if he had achieved getting his PPL license?

12 A. He told us he had not.

13 Q. Okay. Did he tell you if he had taken any tests at all,
14 though?

15 A. He told us that he took the written test but had failed it
16 and not gone back to take the practical test.

17 Q. Did he tell you why he had not gone back to take the
18 practical test?

19 A. He did not. He just said he wasn't progressing and he didn't
20 feel ready. But I also knew, in my experience, that you couldn't
21 take the practical test until you had passed the written test.

22 Q. Okay. Now, did he tell you why it was that he had gone to
23 Airman to take the flight training?

24 A. He said that Airman specialized in training foreign students
25 and that he had chosen not to do it elsewhere, as in back home in

1 the U.K., because of the cost associated with that.

2 Q. Did he explain to you why it was that he had not completed
3 his training at Airman?

4 A. He did. He said that the instructors who were assigned to
5 fly with him were too young, too inexperienced, and that they
6 hadn't been able to teach him.

7 Q. Okay. Did he tell you why it was that he had contacted Pan
8 Am and paid that \$8,300 to take this simulator training?

9 A. He said he just wanted to enjoy the 747-400 series, that he
10 thought since he had been struggling with little airplanes, the
11 general aviation airplanes, that he might enjoy and have benefit
12 from flying larger airplanes.

13 Q. All right. For his personal enjoyment, basically?

14 A. Yes, sir.

15 Q. Did he tell you he was a terrorist at that time?

16 A. No, sir.

17 Q. Did he tell you he was taking the training for terroristic
18 purposes?

19 A. No.

20 Q. Could we bring on the screen Exhibit GX-1, which is a
21 Statement of Facts, paragraph 9.

22 MR. MAC MAHON: Your Honor, I think with this witness
23 we're going to get the lies out, if he wants to. I think he just
24 needs to ask him what Mr. Moussaoui said, not --

25 THE COURT: That objection I am going to sustain.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 874

1 MR. NOVAK: But, Judge, the follow-up question, though,
2 is what is the impact of him not telling that to the interviewer.

3 THE COURT: Let's confine the questioning to this
4 witness, as to what this witness did with the defendant.

5 MR. NOVAK: Yes, Your Honor.

6 BY MR. NOVAK:

7 Q. Now, at that point did Mr. Moussaoui also explain to you what
8 his address -- where he resided before he came to the United
9 States?

10 A. He did. He confirmed the address on his U.K. driver's
11 license, 23A Lambert Road in London as being his residence in the
12 U.K.

13 Q. Did he tell you at any point whether he had resided at a
14 guesthouse in Kandahar?

15 MR. MAC MAHON: Same objection, Your Honor. The
16 question is what did this man tell this person when he was
17 interviewed, not what he withheld from him. The lies are the
18 question he was asked and answered, not evidence that has been
19 withheld. If he asked him did you go stay at a guesthouse in
20 Kandahar, then it would be a fair question. Otherwise, it is not.

21 THE COURT: I am going to continue to sustain that line
22 of objection.

23 MR. NOVAK: All right, Your Honor.

24 BY MR. NOVAK:

25 Q. Did you ask the defendant about his income?

1 A. Yes, sir, I did.

2 Q. Could you tell us what it is that the defendant told you
3 about where he had gotten his money?

4 A. He told us that he had worked here and there at various jobs
5 in the United Kingdom, that he had even before residing in the
6 United Kingdom, he had worked since the age of 14 and that he also
7 received some funding from family and associates.

8 Q. All right. At any point did he discuss with you working in
9 the world of marketing?

10 A. He did.

11 Q. Could you tell us what it is that he told you about that?

12 A. He told us that he was employed at a company called NOP in
13 the United Kingdom. He couldn't remember what NOP stood for, but
14 he remembered N was "national." He said he had worked for them in
15 marketing.

16 Q. Did you press him on any type of details about the NOP?

17 A. We did. We asked what his income had been, what his salary
18 had been, what his job description was.

19 Q. And could you tell us why it is that you were -- first of
20 all, did you get a response to that?

21 A. We did not.

22 Q. And what did he tell you?

23 A. He said he couldn't remember, that he hadn't paid taxes in
24 the year 2000, and that he couldn't remember the answer to those
25 questions.

1 Q. Could you tell us why it is that you pressed him on those
2 types of details?

3 A. Because as a terrorism investigator, we're always very
4 interested in money. It is a key element of any plan.

5 Q. All right. During the interview, were there any discussions
6 with Mr. Moussaoui about an Indonesian company?

7 A. He told us, in fact, that he had been employed with an
8 Indonesian company attempting to do telephone cards.

9 Q. Okay. And did he tell you what happened with that?

10 A. He just said that the business did not work out.

11 Q. All right. Now, did you ask him at any time how much money
12 he was making on a yearly basis or within the last year or two?

13 A. We did.

14 Q. And could you tell us what it is that he told you about that?

15 A. Well, that's when he said he hadn't paid taxes in the year
16 2000 and that, in fact, he couldn't give us an estimate of how
17 much money he made.

18 Q. And did you ask him at any point about this family business
19 or anything that he was associated with?

20 A. We did.

21 Q. Did you press him on trying to get more details or anything?

22 A. We tried to get details out of it. At length he told us in
23 fact, that it was an import/export business with relatives in
24 Saudi Arabia.

25 Q. All right. And were you able to get any more details other

1 than that?

2 A. Very few, just that it was eventually going to involve the
3 import of grape leaves into Saudi Arabia.

4 Q. While you were pushing him for his information about his
5 income, what kind of -- at any point did Mr. Moussaoui become
6 angry with you?

7 A. He did.

8 Q. Can you tell us what happened?

9 A. When we -- when I suggested to Mr. Moussaoui that it seemed
10 strange that he was unable to remember his, what he did for a
11 living, what his job duties involved, how much money he made, who
12 his relatives were who were supplying him these funds, he got very
13 agitated and began telling Special Agent Weess and myself about
14 his academic qualifications.

15 Q. And what were those?

16 A. That he had obtained a Master's degree from South Bank
17 University in the United Kingdom.

18 Q. Okay. And did he tell you if he had any advanced degrees as
19 well?

20 A. He did. He said he had a Master's degree as well.

21 Q. All right. Now, at any point did you show him the Arvest
22 Bank slip, which I think is Exhibit MN-639.4? Could we bring that
23 up? The one that he had showed you at the time of arrest, did you
24 show that back to Mr. Moussaoui.

25 A. We did, yes, sir.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 878

1 Q. And could you tell us, did you have questions about that?

2 A. We did. Special Agent Weess and myself noted that upon
3 arrival in the United States, he had \$32,000 to deposit into an
4 account. We informed him we considered that unusual. And he
5 repeated that he had been working a lot and saved his money and
6 that that was the result.

7 Q. And was he able -- could he give you any other explanation
8 other than that?

9 A. He also said funds had been provided by friends and
10 associates.

11 Q. Could he identify who those friends and associates were?

12 A. He could not. He gave us one name as one nickname as a
13 person that he was in contact with.

14 Q. And what was that nickname?

15 A. The nickname was Talil.

16 Q. Why was it that you were so concerned about who his
17 associates were?

18 A. Because the associates -- we had figured out, we had reasoned
19 that any kind of hijacked plot or any kind of plot involving
20 aircraft would of necessity involve more people; that associates
21 who were providing him money, money which he clearly had been
22 using to reside and operate in the United States, would have
23 probably been provided by those terrorist associates.

24 Q. And could you tell us how is it that his answers affect your
25 interview in terms of how you are proceeding?

1 A. The answers dictate the logical course of the interview. We
2 can't ask logical follow-up questions if we're led down different
3 alleys. For example, if I ask about an associate who has provided
4 him money, supplied him with some of this \$32,000, and he says the
5 person's name is Talil and he lives in the U.K., and he can't
6 remember the person's name, he can't remember their employment,
7 their source of income, it takes us down all sorts of alleys, wild
8 goose chases, essentially.

9 Q. And do you investigate those things that Mr. Moussaoui tells
10 you?

11 A. Absolutely.

12 Q. And you did do that in this case, didn't you?

13 A. That's right.

14 Q. Now, in addition to that, did Mr. Moussaoui tell you where he
15 was born?

16 A. He did.

17 Q. And what did he tell you about that?

18 A. He said he was born in Saint Jean De Luz, a city in France.

19 Q. Okay. Did he tell you what the ethnicity of his parents was?

20 A. That they originated in Morocco.

21 Q. Did he tell you about any other family members?

22 A. He did.

23 Q. What was that that he told you?

24 A. He described a brother and his father.

25 Q. Okay. And any discussions about his sister at any point?

1 A. No.

2 Q. All right. What did he tell you about his father and his
3 brother in terms of their relationship that he has with them?

4 A. He told us he was estranged from both, that his father was
5 employed as a builder and that his brother was a professor but
6 that he was estranged from both.

7 Q. Did he indicate to you where his -- if he had contact at all
8 with his mother?

9 A. He did not.

10 Q. Okay. Did he tell you where his family resided as of the
11 time that he was interviewed?

12 A. He did, in Narbonne, France.

13 Q. Did you ask him why it was that, since his family lived in
14 France, that he was living in England?

15 A. We did. He stated that it was because he had been educated
16 there and that he liked the qualities of the British people.

17 Q. Now, did you ask him at all about his foreign travel?

18 A. Yes, that was a very important interview item.

19 Q. Why is that an important interview item?

20 A. Because international terrorism by its nature involves plots,
21 operations, and funding that occur overseas that cross the borders
22 of countries.

23 Q. All right. And what is it that he had told you about his
24 travel around the world?

25 A. He told us he had been to Saudi Arabia on one occasion, to

1 Morocco. Obviously we understood he had been born in France and
2 educated in the U.K. He explained that. We knew from examining
3 his French passport that he had traveled to Pakistan. And then he
4 also informed us that he had been to Malaysia and Indonesia as
5 well.

6 Q. Did he tell you how long he had been in Pakistan?

7 A. He did.

8 Q. And how long was he, did he report to you that he had been
9 there?

10 A. Two months.

11 Q. And did he tell you why it was that he -- first of all, when
12 was that two-month period that he reported to you that he had been
13 there?

14 A. From December of 2000 to February of 2001.

15 Q. Okay. Did he tell you why it was that he had spent those
16 couple months in Pakistan in the early part of 2001?

17 A. He told us that it was a combination of a business trip with
18 that telephone card company.

19 Q. Okay.

20 A. As well as an attempt to find a wife.

21 Q. All right. Did he tell you how long he had been in
22 Indonesia?

23 A. He did.

24 Q. How long?

25 A. Just a week or two.

1 Q. Did he tell you why he had been in Indonesia?

2 A. Also part of that telephone card business.

3 Q. Did he tell you how long he had been in Malaysia?

4 A. Just a week or two as well.

5 Q. And did he tell you why he had gone to Malaysia?

6 A. As part of that telephone card business.

7 Q. All right. At any point did Mr. Moussaoui tell you that he
8 was looking to get married at some point?

9 A. He did, in Pakistan.

10 Q. Could you tell us what he told you about that?

11 A. He stated that in response to a question I had about why he
12 had stayed in Pakistan for longer than Indonesia and Malaysia, he
13 said in addition to his business with the telephone card company,
14 he was there looking for a wife and that he had been referred by
15 Talil to a brother, his friend Talil from the United Kingdom, to a
16 brother who lived in Pakistan and that that person was going to
17 help him find a wife.

18 Q. Could this friend Talil, could he give you any more
19 information about Talil?

20 A. He could not.

21 Q. Did you ask him for it?

22 A. We did.

23 Q. Why did you want that additional information about his
24 associate?

25 A. Because we were interested in identifying any associate he

1 could name, so that we could run checks on those people as well.

2 Q. So with just a name Talil, you couldn't do that; is that
3 right?

4 A. Correct.

5 Q. What else did he tell you about his time in Pakistan in terms
6 of where he stayed and where he traveled?

7 A. He told us that the entire time he was in Pakistan, he was
8 staying in hotels in the city of Karachi, that he never traveled
9 outside of Karachi at any time.

10 Q. Okay. And at that time -- during that time he is basically
11 staying with Talil's brother; is that right?

12 A. He is associating with Talil's brother but he is staying in
13 hotels.

14 Q. I'm sorry. Okay. And ultimately was he able to give you a
15 first name for Talil at some point?

16 A. Yes.

17 Q. And what was that first name?

18 A. The following or later in that interview he gave us the first
19 name of Ahmed.

20 Q. But without a last name at that point; is that correct?

21 A. Correct, that's correct.

22 Q. Now, had you asked Mr. Moussaoui during the time period that
23 he was in Pakistan, whether he had traveled to neighboring
24 countries or to other parts of Pakistan other than Karachi?

25 A. Yes, sir, I did.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 884

1 Q. What is it that he reported back to you?

2 A. He became very, very agitated by that. He didn't answer that
3 question directly. Even though he previously had stated that he
4 was only in Karachi, when we phrased that question a different way
5 he got very angry and told us that he knew what we were trying to
6 do, and he wasn't going to stand for that. He wasn't going to
7 stand for being treated that way.

8 I asked him what he meant by that, and he said, he knew,
9 he watched TV, and he knew what we were trying to do.

10 Q. All right. You had discussed earlier that you had reviewed
11 Mr. Moussaoui's passport with him; is that correct?

12 A. Yes, sir.

13 Q. If we can bring, give back to the witness Exhibit MN-600.2
14 and bring up page 2 and 3 on the screen. Is that possible? Do
15 you have the exhibit there, MN-600.2?

16 A. Yes.

17 Q. Directing your attention to page 2, does it have the name of
18 Mr. Moussaoui on there?

19 A. It does.

20 Q. Looking at the screen, by the way, are you looking at -- does
21 the screen depict exactly what you have in your hand there?

22 A. It does.

23 Q. So we have Mr. Moussaoui's name, we have got his picture; is
24 that right?

25 A. Yes, sir.

1 Q. And does it have his date of birth on there as well?

2 A. It does.

3 Q. Now, does it indicate when it was that that passport was
4 issued?

5 A. Yes, it does.

6 Q. And what is that date?

7 A. 31 October 2000.

8 Q. And on the top of the next page, does it indicate what his
9 address is? I think it says domicile; is that right?

10 A. It does, yes, sir.

11 Q. What address is indicated on there?

12 A. 23A Lambert Road in London.

13 Q. All right. If we can turn forward to page 8 and 9 and ask
14 you if you can identify an entry stamp on there dated December the
15 9th.

16 A. I can. I can identify one for Karachi Airport in Pakistan
17 for December 9th.

18 Q. Of what year?

19 A. 2000.

20 Q. And is there a corresponding exit stamp for the Karachi
21 International Airport?

22 A. There is, for 7 February 2001.

23 Q. All right. Now, on page 9 also is there a visa that's
24 indicated on there?

25 A. There is. There is a Pakistani, Islamic Republic of Pakistan

1 visa.

2 Q. And that's for entry into Pakistan; is that right?

3 A. Yes, sir.

4 Q. And that visa was issued in what country?

5 A. That visa was issued at the Pakistani High Commission in
6 London, so the country would be England.

7 Q. And what was the date that that visa was issued?

8 A. December 4th of 2000.

9 Q. All right. In London they do it -- we see 4/12/2000. They
10 invert the first two numbers there, right?

11 A. Yes, sir, that's correct.

12 Q. All right. And does it indicate what kind of number of
13 visits that are allowed on that visa?

14 A. It was a multiple-entry visa.

15 Q. All right. And how long was the duration of the stay
16 allowed?

17 A. Up until, it looks like, good for journey until December 3rd
18 of 2001.

19 Q. All right. Does it also have duration of each stay; is that
20 right?

21 A. It does, 90 days each.

22 Q. Does it indicate what the purpose of the visit is on that
23 visa?

24 A. Business.

25 Q. All right. Now, if you can turn to page 31, please, of the

1 passport and if we can put that up. Is that possible? All right.

2 Are you able to see an entry stamp there for the United States of
3 America?

4 A. I can.

5 Q. And what is the date that's indicated for the entry into this
6 country?

7 A. February 23rd of 2001.

8 Q. All right. Now, had you gone through, as you leaf through
9 the entire passport, do you see any entrance or exit stamps for
10 either Indonesia or Malaysia?

11 A. No, sir.

12 Q. And did you ask Mr. Moussaoui why it is that since he had
13 traveled, he had indicated to you that he had traveled to those
14 countries, why it is that that travel was not indicated in his
15 passport?

16 A. I did.

17 Q. And what did he tell you about that?

18 A. He informed me that that had been carried in a previously
19 issued passport, which had been destroyed by going through the
20 washing machine.

21 Q. All right.

22 A. Accidentally destroyed by going through the washing machine.

23 Q. All right. So this was a new a passport after he had ruined
24 the old one in the washing machine; is that right?

25 A. Yes, sir.

1 Q. Now, could you tell us what the import of that is for you as
2 a terrorism investigator?

3 A. I was aware that frequently terrorists to mask suspicious
4 travel or frequent travel, that couldn't be explained by their job
5 or by their nationality, would regularly destroy passports
6 accidentally or report them stolen in order to mask that travel,
7 so they weren't carrying incriminating entry and exit stamps.

8 Q. And you had indicated earlier that Mr. Moussaoui told you he
9 had also traveled to Saudi Arabia; is that right?

10 A. Yes, sir.

11 Q. And was there any stamp in his passport for Saudi Arabia?

12 A. There was not.

13 Q. Now, did Mr. Moussaoui -- you can put the passport aside.

14 MR. NOVAK: Thank you, Mr. Wood.

15 BY MR. NOVAK:

16 Q. Now, Agent Samit, did you ask Mr. Moussaoui if he attended
17 any particular mosque when he was in London?

18 A. Yes, sir.

19 Q. And what is it that he reported to you?

20 A. Regents Park Mosque.

21 Q. Did he report to you whether he attended any mosque when he
22 was in Norman, Oklahoma?

23 A. He did. He said that he attended the Anoor Mosque there.

24 Q. Did he report to you where it is that he had met Mr.
25 al-Attas?

1 A. He did.

2 Q. And where was that?

3 A. At the mosque.

4 Q. Okay.

5 A. The Anoor Mosque.

6 Q. Now, did Mr. Moussaoui describe himself in terms of what his
7 religious views were to you?

8 A. He did. He said he considered himself a religious Muslim.

9 Q. And did you ask him if he had followed any particular
10 religious scholars or leaders?

11 A. We did.

12 Q. And what is the import of that to you as an -- why did you
13 want to ask him something like that?

14 A. Well, because frequently, especially -- frequently
15 extremists, Muslim extremists will have a leader, either of a
16 group or of a religious order that they follow and whose views and
17 beliefs they subscribe to.

18 Q. Okay. Did he report to you that he followed any particular
19 religious leader?

20 A. He did not. He said that he had no religious leader. He had
21 no leader of any kind, that things were very clear for him, he
22 didn't need anyone to explain things.

23 Q. Did he tell you how often he prayed?

24 A. He did.

25 Q. How often was that?

1 A. Five times daily.

2 Q. Did he speak of helping his Muslim brothers?

3 A. Yes, sir.

4 Q. What did he tell you about that?

5 A. He told us that he considered it his duty to help his Muslim
6 brothers in any way possible.

7 Q. Did you ask him if he could read or speak or write Arabic?

8 A. I did.

9 Q. What did he tell you about that?

10 A. He said he could speak it but that he could not read or write
11 it.

12 Q. And did he have any discussions with you about how that
13 impacted his understanding of fatwahs?

14 A. Yes, sir.

15 Q. What did he tell you about that?

16 A. He claimed to me that as a result of not being able to read
17 or write Arabic, he couldn't understand fatwahs.

18 Q. Did you have any discussions with Mr. Moussaoui about the
19 plight of the Palestinians in relation to the country of Israel?

20 A. Yes, sir.

21 Q. And what is it that Mr. Moussaoui reported to you, his views
22 on that?

23 A. He stated that that crisis, that confrontation made him very
24 sad.

25 Q. Did you have any other follow-up discussions with that?

1 A. We continually talked about the theme of helping Muslims and
2 what he considered that help to be, yes.

3 Q. Did you ask Mr. Moussaoui if he had been drafted into the
4 Army in France?

5 A. Yes, sir.

6 Q. Is there regular conscription in France?

7 A. There is.

8 Q. And what is it that Mr. Moussaoui reported to you about his
9 draft status in the country of France?

10 A. He indicated that he had not served in the French military
11 due to some family and personal problems.

12 Q. Did you ask him about his familiarity with weapons?

13 A. Yes.

14 Q. Why did you ask him about that?

15 A. Because my understanding is, was that frequently
16 international terrorists train in camps. During that training
17 they receive weapons training.

18 Q. Okay. What did he report to you about his familiarity with
19 weapons?

20 A. He reported that he was unfamiliar with weapons, that he had
21 never been trained in them, that he had fired a handgun on one or
22 two occasions with some, owned by some friends in France. He said
23 he was curious about weapons and would some day like to learn
24 about them but he denied unequivocally that he had ever been
25 trained in them or used them.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 892

1 Q. Did you ask him particularly if he had been in terrorist
2 camps?

3 A. No, not at that time.

4 Q. Did you ask him about training with weapons, though, at all?

5 A. Yes. We asked him if he ever received any training with
6 weapons.

7 Q. And he denied that; is that right?

8 A. He did.

9 Q. All right. Now, did you ask him about what he intended to do
10 upon his completion of his training at Pan Am?

11 A. He did -- we did ask him that, and he informed me that he
12 intended to return to Norman, Oklahoma and then eventually back to
13 the United Kingdom.

14 Q. At any point did he indicate to you whether he and Mr.
15 al-Attas intended to take a sight-seeing trip in the United
16 States?

17 A. He did.

18 Q. What did he tell you about that?

19 A. He told us that he was planning to go to New York and Denver
20 as well.

21 Q. Did he tell you when that was going to occur?

22 A. At the conclusion of his training in Minnesota.

23 Q. Did he tell you where -- I'm sorry, where in particular he
24 was going to go?

25 A. Well, when he said he was going to New York, he said he was

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 893

1 going to go to see the Empire State and the White House.

2 Q. Okay. And now -- was there anything else that you discussed
3 during the interview on that evening?

4 A. We just, we discussed leaving the interview open, that we
5 would talk again tomorrow after we did some checks.

6 Q. Okay. Basically, did the interview conclude then, after --
7 we basically captured the large part of the interview at that
8 time?

9 A. Yes, sir. Yes, sir.

10 Q. And what did you do with Mr. Moussaoui at that point?

11 A. Special Agent Weess and I transported him to Carver County
12 jail for the night.

13 Q. Okay. And during the drive, how far of a drive was that from
14 the INS offices?

15 A. 30 to 40 minutes.

16 Q. And during that drive did you have any more conversations
17 with Mr. Moussaoui?

18 A. We did. Mr. Moussaoui informed us during that transport that
19 he again reminded us of the importance of his flight training. He
20 told us that, in fact, if we would let him go, if we would release
21 him from INS custody, he would complete the flight training and
22 return so that we could deport him.

23 Q. Okay. He was pretty focused on that training; is that right?

24 A. Extremely. It was a constant theme during our interviews.

25 Q. And what did you tell him in response to that request, to let

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 894

1 him go so he could finish the training?

2 A. Well, we told him we needed to clear up a few issues first,
3 we needed to continue discussing his background and the issues we
4 discussed that night before we could make a decision.

5 Q. Okay. And that was the last -- you took him to the jail; is
6 that right?

7 A. Yes, sir.

8 Q. Let's go to the next day, August the 17th of 2001.

9 About 9:00 a.m. -- now, you had previously testified
10 that Mr. al-Attas was asked to report to the INS on that day. Did
11 he show up?

12 A. Yes, sir, he did.

13 Q. And did you and Agent Weess interview him at that time?

14 A. We did. We interviewed him again.

15 Q. Again. And how long approximately was it that that interview
16 occurred?

17 A. About an hour.

18 Q. Did you get a signed statement at that time?

19 A. We did.

20 Q. And now did you ask him -- this interview, was it basically
21 divided in two parts?

22 A. It was. It was a two-part interview.

23 Q. And could you describe for us what it is that you mean, why
24 you described it as a two-part interview?

25 A. Because the first part of the interview was about

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 895

1 Mr. Moussaoui, was just a continuation of our discussion of
2 Mr. Moussaoui the night before. The second part of the interview
3 by agreement was going to focus on Mr. al-Attas.

4 Q. All right. Let's talk about the first part then about
5 Mr. Moussaoui.

6 What additional details, if any, did he give you on the
7 August the 17th to supplement that which he had told you on the
8 previous day?

9 A. He provided additional details about Mr. Moussaoui's belief
10 in defending Muslims, knowing of the plight of Muslims elsewhere.
11 He provided a little bit more on Mr. Moussaoui's philosophy of how
12 Muslims should prepare themselves to fight, should be ready to
13 fight, the approval of martyrs, that Mr. Moussaoui approved of
14 martyrs, which was consistent with Islamic radicals.

15 Q. Okay. Did you press him for any further personal details
16 about Mr. Moussaoui, about his name, beyond Shaqil or any things
17 like that?

18 A. We did, and Mr. al-Attas stated that Shaqil was, he continued
19 to state Shaqil was all he knew him by.

20 Q. Okay. Now, did you ask Mr. al-Attas if Mr. Moussaoui
21 followed the teachings of any particular sheikh?

22 A. We did.

23 Q. And what was the response by Mr. al-Attas?

24 A. Mr. al-Attas said that Mr. Moussaoui was, had told him he had
25 a sheikh that he followed but that he was unwilling to reveal the

1 name to Mr. al-Attas because he feared Mr. al-Attas would not
2 approve of that sheikh because of the sheikh's nationality.

3 Q. Okay. And did you ask him if that sheikh was Usama Bin
4 Laden?

5 A. We did.

6 Q. And what was the response by Mr. al-Attas on that?

7 A. Mr. al-Attas considered that possibility but he said he did
8 not think so.

9 Q. Did you ask him, Mr. al-Attas, if Moussaoui had ever spoken
10 about Bin Laden?

11 A. Yes.

12 Q. And what did Mr. al-Attas report to you about that?

13 A. Mr. al-Attas stated that he had on one occasion spoken about
14 Bin Laden, when the two of them were watching TV together, a news
15 clip, film clip came on of Mr. Bin Laden, and he said that
16 Mr. Moussaoui called his attention to that person and kind of gave
17 an indication that there was somebody important or there was
18 someone of significance.

19 Q. All right. Now, did you have -- did you ask Mr. al-Attas
20 about whether or not Mr. Moussaoui associated with others down in
21 Oklahoma?

22 A. We did.

23 Q. And what did Mr. al-Attas report to you?

24 A. He gave us the names of a couple of people at the flight
25 school, who might have, might be associates of Mr. Moussaoui.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 897

1 Q. Anything else about Mr. Moussaoui during that interview of
2 consequence that he supplemented from the previous interview?

3 A. No.

4 Q. All right. Now, in addition to asking questions of
5 Mr. al-Attas, as well as Moussaoui, did you ask him about,
6 questions about Mr. al-Attas?

7 A. In the second part of the interview, when Mr. al-Attas
8 informed us that he had told us all that there was about
9 Mr. Moussaoui, we switched and started talking to Mr. al-Attas
10 about himself again.

11 Q. And did you ask him about whether he was making any money
12 from employment in the United States?

13 A. Special Agent Weess asked him if he was receiving money for
14 any work he was doing, yes.

15 Q. Okay. And what was Mr. al-Attas's response?

16 A. Mr. al-Attas indicated that, in fact, he was being paid by
17 the mosque to teach the children, to teach the children in
18 religious studies there.

19 Q. Okay. And did that have any consequence upon Mr. al-Attas's
20 visa situation?

21 A. It did. It put him, absent permission to work on an F-1
22 visa, which he did not have, it put him in violation of that visa.

23 Q. As a result of that, did you-all arrest Mr. al-Attas?

24 A. Special Agent Weess placed Mr. al-Attas under arrest, yes.

25 Q. Now, you told us the violation of the visa waiver program by

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 898

1 Mr. Moussaoui. He could not get bond; is that right?

2 A. That's correct.

3 Q. But in contrast to Mr. al-Attas's situation, that violation
4 of the student visa, is somebody able to get bond?

5 A. They are.

6 Q. All right.

7 A. They are.

8 Q. And did he, indeed, ultimately post bond after that arrest?

9 A. He did.

10 Q. And when was it that he posted that bond?

11 A. That arrest occurred on Friday, on the 17th, and he was, he
12 posted bond and was released on that Monday, the 20th.

13 Q. Okay. Now, how long was it that -- approximately when is it
14 that you stopped talking to Mr. al-Attas when he was arrested,
15 what time of day was it?

16 A. Probably by the time we finished the interview and he was
17 handed over to the detention agents would have been between 10:30
18 and 11 a.m.

19 Q. So you talked to him about maybe short of two hours?

20 A. We talked to him for probably about an hour and then the
21 processing and reassuring him took probably another half an hour.

22 Q. Now, where did you transport Mr. al-Attas to?

23 A. Al-Attas was transported by immigration detention officials
24 to Carver County Jail.

25 Q. The same jail Mr. Moussaoui had been in the night before?

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 899

1 A. Previously, yes. And he had been transported back up by then
2 to the immigration office.

3 Q. And at any point did you put the two of them in the same jail
4 together?

5 A. No, sir.

6 Q. We're going to talk about another interview of Mr. Moussaoui,
7 but when you were done with that, did you send Mr. Moussaoui back
8 to Carver or did you send him to a different jail?

9 A. At the conclusion of the interviews on the 17th,
10 Mr. Moussaoui was sent to a different jail.

11 Q. And what jail was that?

12 A. Sherburn County Jail.

13 Q. All right. Now, after you got done talking to Mr. al-Attas,
14 did you have an occasion to speak with Mr. Moussaoui?

15 A. We did. We, as we had agreed the night before, we
16 reinterviewed Mr. Moussaoui.

17 Q. All right. And at that time did you -- how long did you
18 interview him?

19 A. Approximately two hours.

20 Q. All right.

21 A. One to two hours.

22 Q. And at that time when you first started, did you readvise him
23 of his Miranda rights as you did the previous day?

24 A. We did. We reminded him that that was still in effect.

25 Q. And at that time was Mr. Moussaoui interested in talking to

1 you or not?

2 A. He was. He was very interested in talking to us that time.

3 Q. And did he tell you why it was that he was eager to talk to
4 you?

5 A. Again, he reminded us of the need to continue flight
6 training. He was very under control. He spoke in a controlled
7 manner. He was -- he said he was anxious to clear things up. He
8 informed us that he had never been arrested before, his words were
9 "my file is clear, and I would like to get this straightened out
10 so I can return to flight training."

11 Q. All right. By the way, at that time did he provide to you
12 any information about whether his father had been in trouble
13 before?

14 A. He did. He indicated his father had been arrested before.

15 Q. For what?

16 A. Issues relating to his construction business. He undercut
17 some jobs or he otherwise didn't use materials that were up to
18 standard.

19 Q. Did he tell you, did he give you the name of his brother at
20 that time?

21 A. He did.

22 Q. What was that?

23 A. Abd Samad.

24 Q. Did he tell you what his brother did in France?

25 A. He indicated that he was professor in Montpellier, France.

1 Q. Okay. Now, did you again during this second day of
2 interviews, did you ask him about the source of his funding again?

3 A. Yes.

4 Q. And could you tell us why it is that you did that again?

5 A. The issue remained the same from the day before. He had not
6 provided a wholly convincing explanation for where he was able to
7 come up with that amount of money.

8 Funding is very important to terrorism investigators
9 because, not just the source that allows us to identify
10 associates, but it also gives an indication of what the plan may
11 be. It is a very important article of any criminality for us to
12 determine it.

13 Q. And did he indicate to you any further discussions about
14 where he had gotten his money from?

15 A. He did.

16 Q. And what was that?

17 A. He named, he indicated it was from friends and associates.

18 Q. And did you press him again on details of who those friends
19 were?

20 A. We did. We pressed him on them, again, reminding him that it
21 seemed very strange that people who had provided him with such a
22 large sum of money, that he couldn't even name.

23 Q. Okay. And what names did he give you at that time?

24 A. In the middle of his getting angry and shouting at us, he
25 gave us the name Ahmed Atif.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 902

1 Q. And Ahmed Atif, was that any relationship to the Ahmed who
2 was Talil the day before?

3 A. It was. He indicated that he had remembered the name, the
4 last name, and that Talil was, in fact, Ahmed Atef.

5 Q. And what did you do with that information about that name?
6 Did you take any investigatory action about that?

7 A. Yes, sir.

8 Q. And what investigatory action was it that you took?

9 A. We -- I sent an immediate lead to our legal attache in
10 London.

11 Q. Okay.

12 A. Asking for information about that person.

13 Q. You are trying to follow that trail of money to see if it led
14 anywhere; is that right?

15 A. We trailed the money and of any associates that he is naming.

16 Q. Did it turn out to be fruitful in any fashion?

17 A. It did not.

18 Q. What did you find out about the fellow?

19 A. That he was, in fact -- months later we were able to learn --

20 MR. MAC MAHON: Objection to what he found out months
21 later, Your Honor, if that's the focus of this investigation. If
22 he wants to open that up, we can do that.

23 MR. NOVAK: Well, we're going to go there, but I think
24 that's a proper response.

25 THE COURT: I am going to overrule the objection. I

1 think that gives a complete picture of what was going on. Do you
2 have water?

3 THE WITNESS: He is working on it, Your Honor.

4 THE COURT: Thank you.

5 THE WITNESS: We found out months later, in fact, that
6 Ahmed Atif was not related in any way to this investigation.

7 BY MR. NOVAK:

8 Q. So that was a lie?

9 A. Yes, sir.

10 Q. All right. And did he give you the name of anybody else
11 other than Ahmed Atif?

12 A. He did.

13 Q. And what other name did he gave you?

14 A. He gave us a name Habib.

15 Q. Did he give you a last name for Habib?

16 A. He did not.

17 Q. Did he tell you what country Habib was in?

18 A. He indicated that Habib resided in Germany.

19 Q. Did you do any investigation in Germany on Habib?

20 A. No, because he was unable to give a last name, a telephone
21 number. He told us he didn't even know what city or what part of
22 Germany Habib resided in.

23 Q. Did you ask him for all these details?

24 A. We did.

25 Q. And were you continuing to ask for as much information as

1 possible about his financial sources?

2 A. That's always the goal of investigators is to get every piece
3 of information that we can. It was a constant theme of our
4 discussion with him.

5 Q. So you were continuing to ask him those questions?

6 A. Yes, sir.

7 Q. All right. And at any point did he mention the name of Ahad
8 Sabet?

9 A. No.

10 MR. MAC MAHON: Your Honor, same objection as before,
11 just waiting for a while to ask that question, never even asked
12 him if he knew anybody named Ahad Sabet.

13 MR. NOVAK: It is a proper response --

14 THE COURT: I am allowing a few but not the whole, we're
15 not going to go through the whole list of things.

16 MR. NOVAK: That's fine, Judge.

17 THE COURT: So that objection I am going to overrule.

18 BY MR. NOVAK:

19 Q. Now, at that time did you ask him, again, as to any questions
20 about his flight training?

21 A. Yes.

22 Q. I'm sorry. I don't think we ever got an answer on the Ahad
23 Sabet question.

24 A. He never mentioned Ahad Sabet. He did not.

25 Q. Did you hear the name Ahad Sabet at all during that

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 905

1 interview?

2 A. No.

3 Q. Other than the names of Talil and Habib, did he give you any
4 other names or any other sources of income, other than those two
5 names?

6 A. No.

7 Q. Now, I'm sorry, moving on to the flight training, did you ask
8 him any further questions about the flight training?

9 A. Yes.

10 Q. And what questions did you ask him?

11 A. We again discussed his purpose, why he was taking the flight
12 training. He gave us a similar answer for enjoyment, for his own
13 personal ego.

14 Q. Okay. Did you have any discussions about any other flight
15 schools that he was associated with?

16 A. He did. When we told him, Mr. Moussaoui, that it seemed
17 unlikely that he would spend that amount of money on what was not
18 going to gain him any ratings, was not going to advance his
19 aviation career in any way, he got agitated and he informed us
20 that there were plenty of other schools in the United States, that
21 he had made numerous inquiries of flight schools and he named a
22 couple.

23 Q. Which couple did he name?

24 A. Flight Safety International and he named the University of
25 Minnesota as well.

1 Q. And did you check out whether, in fact, those places existed?

2 A. Yes. I did Internet searches for both. I was familiar with
3 Flight Safety International anyway but I just verified that they
4 did offer training. They did.

5 Q. Did the University of Minnesota have any type of training,
6 flight training, are you aware?

7 A. Not in specific flight training. What it did have training
8 in was aerospace engineering as an academic pursuit.

9 Q. Now, did you ask Mr. Moussaoui whether you could search his
10 computer at that time?

11 A. We did.

12 Q. What computer did he have?

13 A. He had -- we noticed that the day before when we were
14 bringing his items, his goods to immigration, that he had a laptop
15 computer.

16 Q. All right. And what was his response when you asked him if
17 you could search his computer?

18 A. He was very definite that it was no, the answer was no.

19 Q. Did you ask him again whether you could search the baggage
20 that he had there in his room, the ones that had been transported
21 there to the INS office?

22 A. We did not.

23 Q. You did not or you did not ask him?

24 A. We did not ask him.

25 Q. Okay. And now could you tell us why it is that you asked to

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 907

1 search his computer?

2 A. He was -- he brought up the subject of the Internet. He
3 brought up the Internet searches. It was our, as the largest data
4 storage piece of equipment there, compared to a notebook or
5 compared to any other places where Mr. Moussaoui could have had
6 data stored, and through which he could have communicated, the
7 laptop was the most obvious. It would have the most information
8 and it had the potential to log on to the Internet.

9 Q. Now, could you tell us what else did you ask Mr. Moussaoui
10 then at that time?

11 A. At that point we informed Mr. Moussaoui that, in fact, we did
12 not believe his story and, again, began asking him questions about
13 his source of funding, his associates, and his reasons for flight
14 training.

15 Q. And you never got any more information other than what you
16 have reported to us; is that right?

17 A. Yes, sir, that's correct.

18 Q. All right. Now, at some point did you confront Mr. Moussaoui
19 with what you believed that he was involved in?

20 A. Yes, we did.

21 Q. Could you tell us what it is that you told Mr. Moussaoui?

22 A. We informed Mr. Moussaoui that his story hadn't added up,
23 that he had not given us a satisfactory explanation for his
24 reasons for being in the United States, his reasons for coming to
25 Minnesota to take flight training, the fact that he had so much

1 money, the fact that his flight training and the purpose and the
2 ends to that flight training did not make sense for any kind of
3 practical aviation rating, that we understood that he was an
4 Islamic extremist, that he talked about violence before, and we
5 asked him to identify his associates and what his plan was.

6 Q. And what was his response to that?

7 A. He denied that he was involved in terrorism. He repeated
8 that he was training, his aviation training was for fun. He
9 denied that he was a member of a terrorist group. He denied that
10 he had any contact with terrorists and that he had any terrorist
11 purposes.

12 Q. Did he provide to you the names of any associates?

13 A. He did not.

14 Q. Did he tell you the name of any religious scholar?

15 A. He did not.

16 MR. MAC MAHON: Your Honor, he's answered the question
17 as to what he said. We can go through a list of things he didn't
18 say.

19 THE COURT: I am going to allow a little leeway with
20 this witness. I have been allowing a lot of leeway to the defense
21 in its cross, but -- so overruled. That doesn't mean with every
22 witness we're going to ask a million questions, but that's all
23 right with this witness.

24 MR. NOVAK: I understand. Thank you, Judge. I only
25 have a couple focus questions here anyhow.

1 BY MR. NOVAK:

2 Q. Did he describe -- you asked him about a plan. Did he give
3 you any type of plan he was involved in?

4 A. No.

5 Q. And I think we were cut off but did he ever give you the name
6 of a religious scholar that he followed?

7 A. He did not.

8 Q. Did he ever tell you if he was part of any type of particular
9 type of terrorist group?

10 A. He denied that. He denied direct questions as to: Please
11 tell us the name of your associates, the name of your group, who
12 the other people are. Not only did he not tell us, he denied that
13 he was a member.

14 Q. Now, after he made those denials about having any role in
15 terrorism, can you tell us what happened after that?

16 A. We continued to press him to the point where he said that he
17 was not a member of a group, he didn't have any associates, and
18 then he asked to speak to an immigration lawyer.

19 Q. All right. And did you stop interviewing him at that time?

20 A. Immediately.

21 MR. NOVAK: Judge, I would ask for leave to be able to
22 show the Statement of Facts now to the witness and compare the
23 answers that he gave during the Statement of Facts to those that
24 he gave during the interview because if the agent has to describe
25 how the -- the lies that were told impacted his investigation, it

1 is very material to this entire case about whether they had a
2 consequence or not, and what he would, what he could have done,
3 with the information that was in the Statement of Facts.

4 THE COURT: Well, approach the bench for a second.

5 (Bench conference on the record.)

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3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 911

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3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 912

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3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 913

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10 (End of bench conference.)

11 THE COURT: We're going to go another five minutes and
12 take the afternoon recess. All right? Everybody okay on that?

13 MR. NOVAK: That's fine, Judge, thank you.

14 BY MR. NOVAK:

15 Q. If we can put Exhibit GX-1 on the stand, starting with
16 paragraph 4, please.

17 Now, I'm showing you paragraph 4 from the admissions
18 that Mr. Moussaoui made in his Statement of Facts, Agent Samit.
19 Can you read that?

20 A. Yes, sir.

21 Q. Now, could you tell us at any point during that interview did
22 Mr. Moussaoui tell you that he was a member of al Qaeda and he
23 pledged bayat to Bin Laden?

24 A. No, sir.

25 Q. Could you tell the jury what the impact upon that interview

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 914

1 that you had with Mr. Moussaoui was, had he told you this
2 information that he knew?

3 A. It would have immediately sounded alarm bells.

4 Q. I am just talking about the interview itself. What would you
5 have done in terms of questions that you would have asked
6 Mr. Moussaoui?

7 A. I would have asked additional questions to ascertain the full
8 extent of his role in al Qaeda, his association with Usama Bin
9 Laden, his role in any plot. It would have opened a whole world
10 of questioning.

11 Q. If we can show the witness statement number 5, please, or
12 paragraph number 5. Could you tell us at any point did
13 Mr. Moussaoui tell you that he had trained in a terrorism camp in
14 Khalden, in Afghanistan?

15 A. No, sir.

16 Q. Could you tell us what impact upon the interview in terms of
17 the questions that you had with Mr. Moussaoui that you would have
18 asked had he told you the truth about his terrorist training?

19 A. I would have asked the nature of the training, his
20 associates, again, a whole field of questioning, guesthouses
21 associated with that, with that installation, the types of
22 training he had received in terms of weapons.

23 Q. Okay. Well, talking about guesthouses, let's move on to
24 paragraph 6 of the Statement of Facts. Can you see paragraph 6 up
25 there, Agent Samit?

1 A. Yes, sir.

2 Q. And does that indicate -- well, strike that.

3 Did Mr. Moussaoui ever tell you that he had managed a
4 guesthouse for al Qaeda?

5 A. He did not.

6 Q. Did he ever tell you that he had a high position of respect
7 within al Qaeda?

8 A. No, sir.

9 Q. Did he ever tell you that he spoke directly to Bin Laden and
10 Abu Hafs?

11 MR. MAC MAHON: Your Honor, this is a little different
12 than just asking him about his interview techniques, using this as
13 an excuse to read the Statement of Facts back in the record.

14 THE COURT: I have addressed this issue and I have
15 overruled the objection. We're going to continue. Go ahead.

16 BY MR. NOVAK:

17 Q. Did he tell you that he had communicated directly with Bin
18 Laden and Abu Hafs?

19 A. No, sir. Obviously that would have been the most highly
20 significant information he could have given.

21 Q. Try to explain to the ladies and gentlemen of the jury how it
22 is that an interview works and how you respond to the information
23 that they give you and how this would have affected that.

24 A. An interview is a very dynamic thing, any type of law
25 enforcement interview. It is not a scripted type of event. In

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 916

1 fact, the course that the interview takes is highly dependent on
2 the responses that the person being interviewed gives.

3 If he denies any knowledge of the crime, any knowledge
4 of the activity being described, the interviewer of necessity has
5 to go into side channels which don't get directly at the problem.
6 As the person being interviewed, as the subject begins to make
7 admissions, that leads investigators to ask additional questions
8 which are designed to get more information. If the admissions,
9 and in this case if the lies prevent that, the interview can't
10 continue logically.

11 Q. All right. Now, specifically about this information that is
12 in paragraph 6, where Mr. Moussaoui has admitted that he dealt
13 directly with Bin Laden and Abu Hafs, what kind of questions would
14 you have asked perhaps about Bin Laden and Abu Hafs and al Qaeda?

15 A. I would have asked what his purpose for being in the United
16 States was, what they had asked him to do, who else they had asked
17 to do it, his means of communicating with them, the amount of
18 money they provided him.

19 Q. Okay. You talk about why he was in the United States. Let's
20 move on to paragraph 7. Can you read paragraph 7?

21 A. Yes, sir.

22 Q. Let's expand it a little bit. Can we do that somehow? Now,
23 can you read now paragraph 7? You can take your time there if you
24 want.

25 Now, at any point during your interview with

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 917

1 Mr. Moussaoui, did he ever tell you that he was aware of a plan to
2 fly planes into buildings in the United States of America?

3 A. No, sir.

4 Q. And could you tell the ladies and gentlemen what the impact
5 on your interview would have been had he told you such a plan
6 existed?

7 A. Yes, it would have obviously changed it dramatically. I
8 would have begun asking the timing, the associates, the targets,
9 questions of that nature.

10 Q. All right. And moving on to paragraph 8, please. Could you
11 take a second there and read paragraph 8, Agent Samit?

12 A. Yes, sir.

13 Q. Did you have a chance to read that?

14 A. I did.

15 Q. At any point did Mr. Moussaoui tell you that he was aware of
16 any type of, such operation or religious operation where people
17 were going to die?

18 A. No, sir.

19 Q. And could you tell us how that would have impacted your
20 interview?

21 A. It would, again, have directed us to seek information on
22 associates, people he was aware of, by name, by nickname, by
23 location, telephone number, e-mail address, any way that we could
24 to locate those individuals.

25 Q. Showing you paragraph number 9, if I could. Do you want to

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 918

1 take a second to read that?

2 At any point did Mr. Moussaoui tell you he came to this
3 country to fly a plane into the White House?

4 A. No, sir.

5 Q. Could you tell us what the impact upon your interview would
6 have been had he told you he was here to do such a thing?

7 A. Again, it would have triggered an immediate attempt to gather
8 as many details as possible about that operation, to include
9 people, timing, aircraft, everything we could possibly get about
10 that.

11 Q. Did Mr. Moussaoui ever tell you he had a war name in
12 al Qaeda?

13 A. No, sir.

14 Q. Did you ever see that name there, which I am going to ask you
15 to say it, so I don't embarrass myself, can you tell us what that
16 name is?

17 A. Sahrawi.

18 Q. Did you ever hear that name during that interview?

19 A. No, sir.

20 Q. If he had told you that he was here to do such a thing and he
21 bore a war name as part of al Qaeda, could you tell us how that
22 would have impacted your interview?

23 A. It would have driven both Special Agent Weess and myself,
24 again, to gather every piece of information that we could about
25 the plan, associates, timing, targets.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 919

1 Q. Showing you paragraph number 10, please.

2 THE COURT: Actually, Mr. Novak, why don't we take the
3 break now, since you are having problems finding it and we will be
4 in recess for 20 minutes and reconvene at 10 of.

5 (Recess from 3:30 p.m., until 3:50 p.m.)

6 (Defendant and Jury in.)

7 MR. NOVAK: May I proceed, Your Honor?

8 THE COURT: Yes, Mr. Novak.

9 BY MR. NOVAK:

10 Q. I think I was trying to bring up paragraph 10, which is on
11 two different pages, so I'm going to ask you to take a look at No.
12 10 there, Agent Samit. Take a look at that.

13 A. Yes.

14 Q. Can you tell us, had Mr. Moussaoui told you that as he did
15 when he admitted it before the Court, how would that have impacted
16 your interview on August the 16th and 17th?

17 A. I would have asked him many questions aimed specifically at
18 gathering details of his plans to use his training in furtherance
19 of al Qaeda's plans.

20 Q. By the way, would you have asked specifically about who the
21 al Qaeda associate was that gave him the flight school
22 information?

23 A. I would.

24 Q. And by the way, as of that day, had you ever heard the name
25 Mohamed Atta?

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 920

1 A. Mohamed Atta? No.

2 Q. Okay. Now, if we can move to paragraph 13, please? I'm
3 going to ask you to read that paragraph, sir.

4 Did -- did Mr. Moussaoui ever tell you that the reason
5 that he had those knives, including the dagger that you recovered
6 and the other knife, that it was to get past airport security?

7 A. No.

8 Q. Could you tell us what, if any, impact that had upon your
9 interview with Mr. Moussaoui at that time?

10 A. I would have asked him -- I did not ask him because of that
11 additional follow-up questions about types of other weapons, the
12 reason for bringing those knives. It just ended that there.

13 Q. Would you have asked questions directed towards what kind of
14 countermeasures could have been put in place?

15 A. No.

16 THE COURT: Agent Samit, I may have missed it in your
17 earlier questioning. Did you ask Mr. Moussaoui any questions at
18 all about the knives?

19 THE WITNESS: Your Honor, we did. We asked him why he
20 had them, and he said it was because there was crime in the United
21 States and they were to protect against that.

22 BY MR. NOVAK:

23 Q. So that was not true; is that correct?

24 A. No, that's not true. And consistent with that statement,
25 it's not true. He had the knives for another purpose.

1 Q. All right. Could we show paragraph 14, please?

2 You've had a chance to take a look at that?

3 A. Yes, sir.

4 Q. Now, at any point, did Mr. Moussaoui ask you about any -- or
5 tell you about any receiving of money from a fellow by the name of
6 Ahad Sabet?

7 A. No, sir.

8 Q. Other than this fellow named Habib, the last name unknown,
9 did he mention anyone else from Germany?

10 A. No.

11 Q. Did he mention to you that he had received any of this money
12 via wire transfer?

13 A. No.

14 Q. And could you tell us how it is that this impacted your
15 interview with Mr. Moussaoui, his failure to disclose that
16 information that he ultimately told Judge Brinkema when he pled
17 guilty?

18 A. We were unable to ask him any questions about Germany, about
19 Ahad Sabet, about any type of associate. When we did ask him
20 questions about Germany, about this Habib individual, he claimed
21 he couldn't remember the city, Habib's last name, a telephone
22 number, any of those details, and that effectively ended that
23 questioning.

24 Q. Now, could you tell us how it is that that interview ended?

25 You can put that down. Thank you, Gerard.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 922

1 Can you tell us how it is the interview with

2 Mr. Moussaoui ended?

3 A. Right before he, he invoked his right to counsel while we
4 were talking to him, we informed Mr. Moussaoui that we were aware
5 of his involvement in a plot, in a plot involving airliners. We
6 reminded him that he was in custody and that if anything were to
7 happen to him, that, in fact, he would be held accountable before
8 the United States, before the American people.

9 Q. And what did you do with that?

10 A. What did we --

11 Q. Did he respond to that?

12 A. He did not.

13 Q. All right. And what did you do with Mr. Moussaoui then?

14 A. Well, we continued the questioning until he invoked his right
15 to counsel, and then we turned him back over to the detention
16 personnel.

17 Q. Okay. Is that when you took him to the Sherburn jail?

18 A. Yes, sir.

19 Q. Now, after you took Mr. Moussaoui to the Sherburn jail, could
20 you tell us what it is -- what was your next step that you
21 intended to take in terms of the investigation here, or that you
22 did take, I should say?

23 A. It was Special Agent Weess and my belief that we had
24 uncovered sufficient evidence of a crime, criminal conspiracy, and
25 our plan was to open a parallel criminal investigation and go to

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 923

1 the United States Attorney's Office for appropriate search
2 warrants and subpoenas.

3 Q. To do so, you had earlier told us you have to go through your
4 headquarters; is that right?

5 A. Yes, sir, that's correct. In fact, we do.

6 Q. And had Mr. Moussaoui told you the things in those paragraphs
7 that we showed you on the screen here, would you have relayed that
8 information as well to your headquarters?

9 A. Immediately.

10 Q. All right. Now, could you tell us on August 17 of 2001, did
11 you make some kind of notification to your headquarters?

12 A. We did.

13 Q. And could you tell us -- first of all, would you explain to
14 the ladies and gentlemen what ITOS is in the world of FBI?

15 A. ITOS stands for the International Terrorism Operations
16 Section. It's a group of supervisors and analysts at
17 headquarters, International Terrorism Operations Section, who are
18 assigned to oversee and support investigations in the field, like
19 in Minneapolis.

20 Q. And within ITOS, are there various units dealing with
21 particular groups of terrorists?

22 A. There are.

23 Q. Could you just summarize what some of the units are there
24 that are within the ITOS division of the FBI?

25 A. Two important ones for this are the Usama Bin Laden Unit that

1 deals with al Qaeda, or UBLU is the acronym, and the Radical
2 Fundamentalist Unit, or RFU.

3 Q. And what do they deal with?

4 A. The Usama Bin Laden Unit deals with al Qaeda. The Radical
5 Fundamentalist Unit at the time dealt with Sunni extremists who
6 are not al Qaeda, various other groups.

7 Q. And as a field agent out there, are you supposed to go to
8 the, to the unit that deals with the particular terrorist that
9 you're looking at?

10 A. Exactly.

11 Q. And -- now, you believed that Mr. Moussaoui was a terrorist,
12 as you've -- you confronted him with, as you've testified; is that
13 right?

14 A. Yes, sir.

15 Q. Did you know which terrorist organization he was a member of?

16 A. We did not.

17 Q. And so how did you know which unit to go to in the ITOS?

18 A. Well, we didn't originally, and the one that most logically
19 fitted it was the Radical Fundamentalist Unit.

20 Q. Would that have been changed had he told you he was a member
21 of al Qaeda?

22 A. It absolutely would have. Any of those admissions that you
23 showed me on the screen would have triggered us going to the Usama
24 Bin Laden Unit, as opposed to Radical Fundamentalist Unit.

25 MR. MAC MAHON: Your Honor, I want to renew my

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 925

1 objection. We've got questions about how it would have changed
2 the interview, and now we're getting questions about how it would
3 have changed any of the other things he did, which are purely
4 speculative.

5 THE COURT: Well, I don't think for an on-the-ground
6 agent it's speculative for him to say if I had X, I would have
7 done Y. That's what this agent is essentially saying, and I
8 therefore don't find this speculative.

9 Now, there may be down the road a legitimate basis to
10 make that objection. I don't think this is it, so I'm overruling
11 it.

12 MR. MAC MAHON: Thank you, Your Honor.

13 BY MR. NOVAK:

14 Q. Okay. So instead of going to the Usama Bin Laden Unit, you
15 said you went to the what unit?

16 A. To the Radical Fundamentalist Unit.

17 Q. And why is this that you went to the Radical Fundamentalist
18 Unit?

19 A. We knew that Mr. Moussaoui was a Sunni Muslim, he was an
20 extremist, and we believed he was involved in an ongoing plot.
21 The Radical Fundamentalist Unit was the logical unit.

22 Q. Okay. And now could you tell us how is it that a field agent
23 communicates with the headquarters? Do you just call them up on
24 the telephone, or do you do something else?

25 A. Informal communications can be via telephone or e-mail, but

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 926

1 in the FBI world, formalized communications were through a
2 document that we call an electronic communication.

3 Q. Okay.

4 A. Or an EC is how we abbreviate it.

5 Q. This EC, did you send it then to the RFU unit?

6 A. Initially it was sent to the Iran unit and then routed to the
7 RFU unit.

8 Q. Why did you go to the Iran unit then?

9 A. Because before speaking with Mr. Moussaoui, FBI database
10 checks indicated that his name might be connected to Iran.

11 Q. Okay. And what happened when your EC got to Iran? Did you
12 get kicked over to the RFU unit?

13 A. We did. By then there had been enough of a delay, the
14 interviews had occurred, and we were well aware that it was not
15 under the purview of the Iran unit but in fact the Radical
16 Fundamentalist Unit.

17 Q. So when -- so you never got kicked over to the UBL Unit,
18 though; is that right?

19 A. That's correct.

20 Q. Where you should have been in the first place, all right.

21 Now, could you tell us who was your contact in the RFU
22 unit?

23 A. The supervisor who was assigned oversight and support
24 responsibilities for Minneapolis was Supervisory Special Agent
25 Mike Maltbie.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 927

1 Q. Okay. And when you sent that electronic communication to
2 Mr. Maltbie, what was it that your initial request was that you
3 wanted to do?

4 A. My request to Mr. Maltbie was to apply to the Office of
5 Intelligence Policy Review, to OIPR --

6 Q. That's in the Department of Justice. You talked about them
7 before, right?

8 A. Yes, sir, that's correct.

9 Q. What did you want them -- what did you want to occur?

10 A. I wanted them to grant permission to go to the United States
11 Attorney's Office in the District of Minnesota so that we could
12 pursue criminal charges.

13 Q. Are you trying to overcome the wall, so to speak?

14 A. Not overcome it. I'm trying to get permission to release
15 selected information over it. The wall will still exist, and that
16 will still be, certainly in August of 2001 will be a factor, but
17 what I'm trying to do is pass information to criminal
18 investigators so they can begin pursuing that type of
19 investigation.

20 Q. Okay. And were you given permission to do that?

21 A. I was not.

22 Q. Okay. And why is it -- were you told why it is you were not
23 given permission?

24 A. I was told that, that our headquarters, FBI headquarters,
25 Radical Fundamentalist Unit did not believe that sufficient

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 928

1 evidence of a crime existed, and also that there was a fear that
2 if we were to try and go for a criminal case, to pursue a criminal
3 search warrant initially, and then we had to go back and use
4 techniques under the intelligence world, that it might taint that.

5 Q. Let's step back for a second and talk about the search
6 warrant. What -- were you trying to get a search warrant?

7 A. I was.

8 Q. And -- now, we talked earlier when your testimony began about
9 the difference between a criminal investigation and a FISA, an
10 intelligence investigation. Is there a difference in terms of the
11 types of, at least back then in -- all my questions are designed
12 for August of 2001.

13 A. Yes, sir.

14 Q. Is there any difference -- was there any difference between
15 getting search warrants via the criminal route versus the FISA
16 route?

17 A. There was a large difference --

18 Q. Okay.

19 A. -- in those two.

20 Q. I want you to explain to the jurors how it is that in a
21 normal criminal case, let's say a bank robbery case or something
22 like that, that you would procure a search warrant to search, for
23 example, Mr. Moussaoui's bags.

24 A. Had it been a criminal search warrant, I would have applied
25 to the United States Attorney's Office, to an assistant United

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 929

1 States attorney. I would have presented them verbally and
2 probably in writing with the facts that we learned to date to give
3 probable cause to believe that a crime was being committed and
4 that the person, places, or items to be searched would yield
5 evidence of that crime.

6 I would prepare an affidavit which would be edited by an
7 assistant United States attorney, and then eventually that would
8 be taken, when the affidavit was in a condition agreeable to all,
9 that would be taken before a magistrate, sworn out, and then the
10 magistrate would either agree to sign it and grant the search
11 warrant, or not.

12 Q. And if the answer was not, were you able to search the items?

13 A. No.

14 Q. Now, could you tell us what happened -- of course, and if you
15 would get a search warrant approved by the magistrate, I guess you
16 could search the items; is that right?

17 A. Yes.

18 Q. Now, could you tell us -- you've explained to us how that
19 worked back then in terms of the criminal world. Can you explain
20 to the jurors how that process worked for a FISA search warrant?

21 A. Under the, under the FISA law of 1978, which stands for
22 Foreign Intelligence Surveillance Act, that's a technique used to,
23 to grant searches under an intelligence investigation. Under
24 FISA, we can apply for a search warrant, but instead of giving
25 evidence to a judge that there's a crime being committed, we need

1 to give evidence to a judge that the person who is the subject of
2 that search is acting as an agent of a foreign power, acting as an
3 agent of a terrorist group or foreign government.

4 Q. And is there a definition of what a foreign power or -- well,
5 obviously, we know what foreign governments are. Does the -- is
6 there a definition under law as to what a foreign power would
7 include?

8 MR. MAC MAHON: Excuse me, Your Honor. If he's a legal
9 expert, if he's going to tell them what's in the statute, that's
10 fine, but he can't give his interpretation of FISA law.

11 MR. NOVAK: Judge, it certainly is --

12 THE COURT: Wait a minute. Wait, excuse me. In the
13 course of your career before August of 2001, had you applied for
14 any kind of FISA warrants yourself?

15 THE WITNESS: Yes, Your Honor, I had.

16 THE COURT: How many times had you done that?

17 THE WITNESS: I'd applied three times prior to this
18 event.

19 THE COURT: All right. And had you received any
20 training by the FBI about the requirements to obtain a FISA
21 warrant?

22 THE WITNESS: I had.

23 THE COURT: This agent has adequate background to answer
24 those questions.

25 MR. NOVAK: Thank you, Your Honor.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 931

1 THE COURT: Objection overruled.

2 BY MR. NOVAK:

3 Q. And could you tell us then based upon your training and your
4 knowledge at that time what -- what it is that you needed to prove
5 to establish a foreign power?

6 A. We needed probable -- to establish that it was a foreign
7 power?

8 Q. Yes.

9 A. That it was a group comprised not substantially of United
10 States persons, of citizens or legal permanent residents -- that
11 it was any type of group not comprised of that. And typical
12 subjects of foreign power under the FISA that had been applied for
13 before were hostile foreign governments, terrorist groups.

14 Q. Okay. And does the -- in August of 2001, did the State
15 Department keep a list of groups that were designated as foreign
16 terrorist organizations?

17 A. They did.

18 Q. Was al Qaeda one of those groups?

19 A. It was.

20 Q. All right. Now, therefore, in order for you to, to procure
21 this FISA warrant, would you have to prove an affiliation between
22 the defendant and a, a specified terrorist organization?

23 A. Between the defendant and any terrorist group, yes.

24 Q. Now, now, you've told us what you need to prove to get that.
25 Could you tell us logistically the hoops that you have to jump

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 932

1 through --

2 THE COURT: I'm sorry. I think you need to be careful
3 in how you formulate the question. I don't think it's proof.
4 Isn't it just establish probable cause?

5 MR. MAC MAHON: As I was going to object, Your Honor.
6 That's a misleading question.

7 MR. NOVAK: I'll withdraw the question. That's fine.

8 THE COURT: All right.

9 BY MR. NOVAK:

10 Q. Could you tell us what the -- would you describe for us what
11 the process was then for you to go about procuring a FISA warrant
12 back in August of 2001?

13 A. Once my investigation had convinced myself and supervisors,
14 other agents working the case with me, that probable cause existed
15 to believe that the subject of that warrant -- of that search was
16 acting as an agent of a foreign power, then I would prepare an
17 electronic communication, an EC, and supporting documentation that
18 would go to the Radical Fundamentalist Unit, or the FBI
19 headquarters unit that was overseeing that investigation.

20 They would, they would take that information, they would
21 add whatever type -- whatever information they could to amplify
22 their request, and then they would take it to a headquarters unit,
23 FBI headquarters unit called the National Security Law Unit,
24 comprised of lawyers whose expertise is in the area of national
25 security law.

1 They would review it to ensure that probable cause did,
2 in fact, exist to establish that that person was acting as an
3 agent of a foreign power.

4 When that was in agreement and the FBI agreed that the
5 application had merit, it would then go to the Department of
6 Justice, OIPR, Office of Intelligence Policy Review, where it
7 would again be reviewed by attorneys, this time in the Department
8 of Justice outside the FBI, and again, when all parties agreed
9 that probable cause existed, it would go forward to the FISA court
10 in the form of a declaration.

11 Q. Okay.

12 A. Which a judge would sign or not.

13 Q. Is the FISA court a local judge then in Minnesota, or is that
14 somewhere else?

15 A. It's somewhere else.

16 Q. All right. And is it generally headquartered somewhere in
17 the Washington area, with affiliates around the country?

18 A. Yes, sir.

19 Q. And, and even when the application goes to the FISA judge,
20 the FISA judge still has the decision whether to approve it or
21 disapprove it; is that right?

22 A. That's correct. There's many points along the way where it
23 can be forwarded and not forwarded. The ultimate person who
24 decides is a FISA court judge.

25 Q. All right. And can you explain why it is that, you know,

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 934

1 based upon your knowledge and your training, that there is this
2 difference between all the different layers that are necessary for
3 the FISA warrant as opposed for the lesser scrutiny on a criminal
4 search warrant?

5 A. Because of the -- it just precludes any even illusion that
6 there's a possibility that the FBI could abuse the intelligence
7 investigation process.

8 Q. And when you talk about abuse, what do you mean by that?

9 A. I mean if there's not enough information to, to establish a
10 criminal case, the Department of Justice and the Attorney General
11 have set up guidelines to prevent the FBI from applying for
12 intelligence techniques to circumvent that lack of evidence.

13 Q. The idea being if you don't have enough for a criminal
14 warrant, you don't use the ruse of going to get a FISA warrant
15 when you couldn't have gotten a criminal warrant?

16 A. Yes.

17 Q. Could you tell us if you were to try the old -- go to the
18 criminal warrant first and you didn't receive it, or if it was
19 disapproved, I should say, do you have an obligation to tell that
20 to the FISA judge if you were to go back and try the FISA route?

21 A. Yes, sir, absolutely.

22 Q. Now, could you tell us -- now, you first made an application,
23 you had indicated, to go to the U.S. Attorney's Office to share
24 criminal information so you could procure a search warrant; is
25 that right?

1 A. That is correct.

2 Q. And you told us that was denied; is that right?

3 A. FBI headquarters advice --

4 MR. MAC MAHON: Your Honor, I object. If the
5 headquarters wants to come in and say what they did with this
6 warrant, they can, but he can't give hearsay answers as to what he
7 was told and done by those people.

8 THE COURT: Well, he certainly can explain why he did
9 what he did or didn't do what he didn't do.

10 MR. MAC MAHON: He can, but he can't do it in a way
11 where, you know, we're not going to hear from these other agents
12 as to exactly what happened. To come in and say I was told this
13 or I was told that, he can say I did something after I was told
14 that, but we can't use this as a shadow witness, Your Honor.

15 THE COURT: All right.

16 MR. NOVAK: Judge, a couple responses on that. No. 1,
17 he's testifying as to what he did and what happened on his
18 request.

19 THE COURT: And you're not offering it for the truth of
20 its contents.

21 MR. NOVAK: Not offered for the truth, and I remind the
22 Court, we're in a penalty phase. The rules of evidence don't
23 apply, including hearsay rules. Simply the confrontation clause
24 rules would apply. That's certainly not, as they made in their
25 motion, as the Court is well aware --

1 THE COURT: Well, I've already ruled that the standard
2 rules of evidence don't apply. However, Crawford is a
3 different --

4 MR. NOVAK: Right. But there's nothing accusatory.
5 He's just establishing this is what happened on my efforts to try
6 to get a search warrant.

7 THE COURT: This is a fairly arcane legal discussion.
8 It's important for the lawyers; the jurors may not understand it.
9 Basically, traditionally hearsay evidence doesn't come into a
10 court of law, because it's not considered reliable unless it falls
11 into an exception.

12 Hearsay is an out-of-court statement that's being made
13 by someone other than the person who's in court who can be
14 questioned directly about it, so it's not considered reliable.
15 However, sometimes a witness can talk about what somebody else
16 said, not to try to establish that what that person said is true
17 or not true, but to explain why that person, the speaker in court,
18 takes certain actions. And I'm permitting the use of this
19 information in that non-hearsay way to explain why this agent then
20 did what he did or didn't do what he didn't do.

21 MR. NOVAK: Thank you, Judge. Thank you.

22 Q. Now, I think I was asking, were you told then what the basis
23 was that the denial of the criminal search --

24 MR. MAC MAHON: That's a different question entirely.
25 Were you told what the basis was is the hearsay, Crawford, however

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 937

1 you want to characterize it in the arcane, that's impermissible.

2 MR. NOVAK: No, it's not.

3 THE COURT: Agent, did you take certain steps after you
4 were given the explanation as to why the warrant request was
5 turned down?

6 THE WITNESS: Yes, Your Honor.

7 THE COURT: Let's just go right there.

8 MR. NOVAK: All right, that's fine, Judge.

9 MR. MAC MAHON: Thank you, Your Honor.

10 MR. NOVAK: We'll move on.

11 BY MR. NOVAK:

12 Q. So after your request for the criminal search warrant, to go
13 with the criminal world, was denied, did you take steps to go in a
14 different direction in order to procure a search warrant for
15 Mr. Moussaoui's belongings?

16 A. Yes, sir, we did.

17 Q. And by the way, what is it that you specifically were trying
18 to search?

19 A. We were trying to search the property that had been brought
20 to Immigration, to the Immigration office.

21 Q. Those bags, those seven or eight bags that he had?

22 A. Bags and -- yes, sir. As well as the place where he was
23 staying in Norman, Oklahoma, the 209A Wadsack apartment.

24 Q. And why is it that you wanted to search that location?

25 A. Because we had reason to believe that he would have had other

1 items back there.

2 Q. All right. Now, could you tell us after you were denied the
3 search warrant, did you then -- the criminal search warrant, did
4 you then take steps in order to try to procure a FISA warrant?

5 MR. MAC MAHON: Your Honor, I object to the form of the
6 question. There's no evidence he was denied a criminal search
7 warrant. He was denied the ability to ask for one. It's a
8 misleading question.

9 THE COURT: Rephrase the question, Mr. Novak.

10 BY MR. NOVAK:

11 Q. After you were denied the authority to seek a criminal search
12 warrant, did you take steps to try to get a FISA warrant?

13 A. Yes, sir.

14 Q. Could you explain what it is that -- the steps that you took
15 in order to do so?

16 A. We, we shifted -- I personally shifted gears slightly,
17 because now the nature of the information that I need is
18 different. I no longer need to establish that, in fact, the
19 person is engaged in an ongoing crime, but rather that they're
20 doing any actions on behalf of a foreign power, that they are now
21 acting as an agent of a foreign power, and so the focus changed
22 slightly to that.

23 The substance of the interviews was still useful to some
24 extent and misleading to other extents, but the objective was the
25 same, was the search of those belongings.

1 Q. Well, and specifically factually, are you trying to connect
2 Mr. Moussaoui to a terrorist organization?

3 A. Yes, absolutely.

4 MR. NOVAK: And if we could put on the screen from GX-1
5 paragraph -- excuse me, Your Honor -- 4?

6 Q. Do you recall seeing this before, Agent Samit?

7 A. Yes, sir.

8 Q. That being one of the statements that Mr. Moussaoui admitted
9 to during his statement of facts.

10 Had Mr. Moussaoui told you the truth as he admitted to
11 Judge Brinkema, could you have placed that information in a FISA
12 request?

13 A. Yes, sir. That would have been the centerpiece of a FISA
14 request. That would have established exactly the connection to a
15 foreign power.

16 Q. That you needed to get a FISA, is that correct?

17 A. Yes, sir.

18 Q. All right. Now, did you -- since you did get that
19 information, did you set about to try to gather information to
20 somehow connect Mr. Moussaoui to a recognized foreign terrorist
21 organization?

22 A. Yes, sir.

23 Q. Now, directing your attention to August 23, earlier on in
24 your testimony, you had told us that you had made a request to
25 your -- to Jay Abbott, one of the French legats that the FBI has;

1 is that correct?

2 A. Yes, sir, the assistant legal attache in the Paris office.

3 Q. All right. And on August 23, did you get some information
4 back from your French legat?

5 A. I did.

6 Q. All right. And did you get information from Mr. Abbott
7 connecting Mr. Moussaoui to a dead Chechen fighter?

8 A. Yes, sir.

9 Q. Could you tell the folks what a Chechen fighter is?

10 A. Yes, sir. There was a conflict then going on in the former
11 Soviet -- the former Soviet, now Russian, region of Chechnya.
12 They were seeking independence from the Russian Federation and, in
13 fact, had seen an influx in the late '90s of foreign fighters from
14 various Muslim countries. A number of these soldiers were trained
15 in Afghanistan. They reported into Chechnya and began engaging
16 the Russians in military combat.

17 Q. They were rebels essentially; is that correct?

18 A. Yes, sir, they were supporting --

19 MR. MAC MAHON: Objection, Your Honor, to him
20 testifying.

21 THE COURT: Sustained.

22 BY MR. NOVAK:

23 Q. Well, let me ask you this: You had told us that al Qaeda was
24 identified on a State Department list as a foreign terrorist
25 organization. Were Chechen rebels identified as a foreign

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 941

1 terrorist organization?

2 A. No, sir, they weren't.

3 Q. Now, on August 30, did you get additional information back
4 through your French legat?

5 A. Yes, sir.

6 Q. And did you get specific information about Mr. Moussaoui's
7 fundamentalism?

8 A. Yes.

9 Q. Could you describe what the extent of the information was
10 about his religious views?

11 A. That he was extreme, that he was -- had espoused violence,
12 that he attempted to recruit and convert others to both the
13 extreme view of Islam and to violence, and that he had followed
14 closely the Wahabi sect of Islam.

15 Q. Now, moving forward then -- by the way, in addition to trying
16 to gather this information about his background, did you also
17 follow his -- the lies that he told you to make investigative
18 leads to England?

19 A. Yes. At the expense of some other investigative leads that
20 we could have sent, yes.

21 Q. And on August 19, did you send a request to the English
22 government asking for them to do investigation on your behalf?

23 A. To our legal attache in London, yes, sir.

24 Q. Same type of thing you have in France, you've got one over
25 there in England?

1 A. Correct.

2 Q. And what type of information was it that you were trying to
3 gather in England?

4 A. The same type of information regarding associates, sources of
5 funding. The one that was sent to London to our legal attache
6 carried particular weight and detail because those are the items
7 not only that Mr. Moussaoui had disclosed to the associate, Ahmed
8 Atif, but he had done so in such a way in the interview that made
9 me believe that that was a person of significance.

10 Q. All right. You were following out whatever lead you had
11 basically; is that right?

12 A. Yes, sir.

13 Q. Now, on August 22, did you have -- receive information from
14 the Central Intelligence Agency?

15 A. I did.

16 Q. Now, does the Central Intelligence Agency have a different
17 role in the world of the intelligence community than the FBI?

18 A. It does.

19 Q. And in a general sense, can you describe what the difference
20 in role is?

21 A. The FBI is the domestic intelligence agency. We are
22 designed -- one of our missions is to gather intelligence,
23 national security information relevant to people within the United
24 States. The Central Intelligence Agency is assigned to do that
25 external to the United States.

1 Q. Now, on August 22, did you receive information -- further
2 information about connecting Mr. Moussaoui to the Chechen rebels?

3 A. Connecting Mr. Moussaoui to the Chechen rebels?

4 Q. Well, what information did you get back from -- summarizing
5 what you got from the CIA at that time?

6 A. I received information from them that Mr. Moussaoui's dead
7 associate was connected to the leader of the Chechen rebels by
8 name, and that that --

9 Q. Who is the -- what name did you receive of the leader of the
10 Chechen rebels?

11 A. Ibn Khattab.

12 Q. Okay. Do you want to spell that?

13 A. I-b-n K-h-a-t-t-a-b.

14 Q. Okay. Did you receive any other information about Ibn
15 Khattab, the leader of the Chechen rebels?

16 A. From the Central Intelligence Agency I learned that Ibn
17 Khattab and Usama Bin Laden had had a relationship based on their
18 past history.

19 Q. Okay. Did you receive any information about Mr. Moussaoui
20 being a member of al Qaeda?

21 A. No.

22 Q. At any point, did you ever receive any information about
23 Mr. Moussaoui being a member of al Qaeda?

24 A. Prior to the, the attacks? No.

25 Q. Now, did you continue to try to accumulate the information

1 that you had gotten through your French legat and from the Central
2 Intelligence Agency in terms of pursuing your FISA warrant?

3 A. Yes. It was, it was the obsession of our squad, of the Joint
4 Terrorism Task Force, was doing just that.

5 Q. When you say obsession, could you tell us what do you mean by
6 that?

7 A. I mean that on the basis of the interviews that Special Agent
8 Weess and myself had done on the 16th and the 17th, we were
9 convinced that Mr. Moussaoui was involved in some type of plot,
10 and so all of our energies were directed at accumulating whatever
11 was required, evidence or intelligence, to get into his belongings
12 and search them for information as to what was going to happen.

13 Q. Now, at some point, your request to get a FISA search warrant
14 was denied by your headquarters; is that right?

15 A. Yes, sir.

16 Q. Okay. Do you know approximately when that was?

17 A. Approximately August 28.

18 Q. All right. At the time that your request for a search
19 warrant was denied, could you explain to us what was the extent of
20 the information that you had available that connected you to a
21 terrorist organization?

22 A. Yes, sir.

23 Q. Or Mr. Moussaoui, I'm sorry.

24 A. Yes, sir. We had information from our legat in Paris that
25 Mr. Moussaoui had recruited this fighter for the Chechens who had

1 since been killed in Chechnya, that that fighter, in fact, was
2 connected to Ibn Khattab, who was the leader of the Chechen
3 fighters.

4 The CIA was able to confirm that information and also to
5 provide information that Ibn Khattab and Usama Bin Laden had a
6 relationship.

7 Q. So to get to the proof of al Qaeda, you were trying to go
8 through Moussaoui's friend to the leader of the Chechens, from the
9 leader of the Chechens to al Qaeda; is that right?

10 A. Yes.

11 Q. If Mr. Moussaoui told you what was in paragraph 4 that we
12 showed you, would you have needed to do that?

13 MR. MAC MAHON: Your Honor, I'm going to object. It's a
14 misleading question, that anybody at the government ever even
15 looked at a warrant or even a warrant request along the lines that
16 Mr. Novak just described.

17 THE COURT: Wait, wait, wait. It's more appropriate --
18 I don't think that question got into that at all, but I think this
19 is areas for cross examination, but this question is not
20 objectionable.

21 MR. MAC MAHON: Okay.

22 THE COURT: Overruled.

23 MR. MAC MAHON: All right.

24 BY MR. NOVAK:

25 Q. So had Mr. Moussaoui said, as he did before this Court, that

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 946

1 he was a member of al Qaeda, would you have had to try that
2 circuitous route in order to try to get to al Qaeda?

3 A. Absolutely not.

4 Q. The designated organization?

5 A. In fact, if he had answered our specific questions as to what
6 group he was a member of, who his associates were, it would have
7 met the foreign power standard immediately.

8 Q. Now, after the FISA request was denied by your headquarters,
9 did they relay to you why it was that they were denying it?

10 A. They did.

11 Q. And what was that?

12 A. They informed that --

13 MR. MAC MAHON: Objection, Your Honor, as to why --
14 first of all, the question is misleading that a warrant was ever
15 presented to anybody. If he wants to clarify that, he can, but
16 then to get the hearsay about what happened to it is
17 inappropriate.

18 THE COURT: I'm not going to permit the government to
19 use hearsay in this case.

20 MR. NOVAK: That's fine. I'll move on.

21 THE COURT: Sustained.

22 MR. NOVAK: All right.

23 Q. Let me ask you this: At any point, were you able to satisfy
24 your headquarters' demands as to the proof as to what the foreign
25 power was?

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 947

1 A. No.

2 Q. All right. Now, after your headquarters denied your efforts
3 to try to get a FISA warrant, did you come up with a different
4 plan in order to try to get a search into Mr. Moussaoui's bags, at
5 least his bags that he had with him?

6 A. Yes, sir.

7 Q. And what was that plan?

8 A. Through consultation with our legal attache's office in
9 Paris, we learned that the French government had an interest in
10 Mr. Moussaoui and, in fact, that they were willing to accept his
11 being deported there with the provision of French law that his
12 belongings could be searched upon his arrival.

13 Q. Now, you could lawfully deport him already based upon his
14 overstay in the visa waiver program; is that right?

15 A. Yes, sir, that's correct.

16 Q. And through this series of days thereafter, did you set up
17 plans in order to do so?

18 A. We did. We worked -- that became the primary focus. We kept
19 the other options, obviously mindful of the criminal and of the
20 intelligence, the FISA option as well, but our primary focus then
21 became the deportation of Mr. Moussaoui to France in order to
22 allow his goods to be -- his property to be -- property to be
23 searched.

24 Q. And when was that finally approved by all parties, that that
25 was -- that that could occur?

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 948

1 A. On the afternoon of September 10, 2001.

2 Q. And, and Mr. Moussaoui obviously as of September 11 had not
3 been sent back to France; is that right?

4 A. That's correct.

5 Q. When was that to occur, do you know?

6 A. In the very near future. We had received authority to begin
7 planning for that on the afternoon of September 10. Obviously,
8 the time difference being what it was, the legal attache's office
9 in Paris was closed, so that next morning, we were going to set up
10 the logistics, but it was going to be a matter of days.

11 Q. And the whole purpose of that plan was in order to allow you
12 to search his stuff; is that right?

13 A. Yes, sir.

14 Q. Now, in addition to taking those precautions, at any point
15 did you ask your headquarters to notify the FAA about the threat
16 that Mr. Moussaoui posed?

17 A. Yes, sir.

18 Q. And on August 31, did you send what is known as an LHM to
19 Mr. Maltbie in the RFU unit?

20 A. I did.

21 Q. Do you want to tell the folks what an LHM is in the jargon of
22 the FBI?

23 A. An LHM stands for letterhead memorandum, and a letterhead
24 memorandum is a document authored by someone in the FBI that is
25 intended to be released outside of the FBI, whether it's to

1 another law enforcement agency in the United States, to another
2 member of the intelligence community, or to a friendly foreign
3 government.

4 Q. And why is it that you wanted your headquarters to notify FAA
5 about what was happening with Mr. Moussaoui?

6 A. Because of the, our investigative theory that he was involved
7 in a plan to hijack a commercial airliner.

8 Q. And on September 5 of 2001, do you know if your headquarters
9 did, in fact, make that notification?

10 A. They did. In fact, our headquarters issued a teletype, a
11 message to a number of other government agencies, to include the
12 FAA.

13 Q. Now, in addition to what you requested your headquarters to
14 do, were you so concerned about the FAA being notified that you
15 took steps on your own as a local guy on the ground out in
16 Minnesota to make sure the FAA knew what was going on with
17 Mr. Moussaoui?

18 A. Yes, sir. Special Agent Weess and myself on September 5 went
19 to the FAA investigators in the Twin Cities, in Minneapolis-St.
20 Paul, and provided them a personal briefing on the contents of the
21 teletype, as well as case agent perspective on what we believed
22 was actually going on.

23 Q. And did that include the lies that he had told you on August
24 16 and August 17?

25 MR. MAC MAHON: Your Honor, that's argumentative. If

1 he's going to the statement of facts again, did it include what he
2 told them? Did it include the lies? It couldn't have included
3 the lies, Your Honor.

4 THE COURT: I'm going to overrule the objection, but be
5 careful. I don't want questions being argumentative or overly --

6 MR. NOVAK: That's fine, Judge, yes.

7 Q. Did you tell the FAA the things that Mr. Moussaoui told you
8 on August 16 --

9 A. We did. We were only able to report what he told us.

10 Q. Had Mr. Moussaoui told you the things that in the statement
11 of facts he admitted in front of this Court, for example, that he
12 was part of a plot to fly planes into buildings, could you have
13 supplied that information to the FAA on September 5 as well?

14 A. Absolutely. It would have gone much sooner, obviously, but
15 yes, we would have been in a position to do that.

16 Q. Well, why would it have been smoother? What would you have
17 done?

18 A. We would have notified them immediately, along with other
19 members of the intelligence community, FBI headquarters, FBI New
20 York. Within minutes of Mr. Moussaoui disclosing any of those --
21 answering any of those questions truthfully, that information
22 would have been forwarded to, to every member of the intelligence
23 community, and especially the FAA.

24 Q. And why especially the FAA?

25 A. They're responsible for the safety of airplanes, commercial

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 951

1 aviation.

2 Q. Now, you never did get your search warrant to search

3 Mr. Moussaoui's belongings; is that right?

4 A. That's correct.

5 Q. Until September 11, is that correct?

6 A. Correct.

7 Q. You want to tell the ladies and gentlemen what happened on

8 September 11?

9 A. The attacks, the terrorist attacks in Pennsylvania, New York,
10 and Washington, D.C.

11 Q. And as a result of those attacks, those crimes occurring,
12 were you then authorized to go get a criminal search warrant?

13 A. Yes, sir.

14 Q. And did you go that very day, September 11, to the United
15 States Attorney's Office in Minneapolis and procure a search
16 warrant?

17 A. Within minutes of our being granted permission, I was on my
18 way to the United States Attorney's Office at full speed, yes,
19 sir.

20 Q. And did the U.S. Attorney's Office help you and your brother
21 agents to get a search warrant then signed by a United States
22 magistrate judge?

23 A. Yes, sir.

24 Q. And who authorized that search warrant?

25 A. Who authorized --

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 952

1 Q. Who's the judge that --

2 A. Oh, the Honorable J. Earl Cudd, U.S. Magistrate.

3 Q. Now, after you got a search warrant, now you had the legal
4 ability to go in and search Mr. Moussaoui's items; is that right?

5 A. Yes, sir.

6 Q. And did you do so?

7 A. Yes, sir.

8 Q. Can you tell the folks what it is that you did finally with
9 those bags that he had stored in INS for those three weeks?

10 A. Special Agent Weess went down to Immigration and was, was
11 responding lights and sirens to bring those bags to the FBI office
12 at full speed. The warrant was signed, and I had an FBI
13 organization within our office called the evidence response team,
14 agents who are specially trained in evidence recovery, standing
15 by.

16 When the goods arrived, when the personal property
17 arrived and the warrant arrived, the evidence response team under
18 my direction immediately began executing the search warrant.

19 Q. And let me ask you this: During this time period where
20 you're making all these efforts to get the search warrant that
21 doesn't occur until September 11, where is Mr. Moussaoui at this
22 time?

23 A. He's in Sherburn County jail.

24 Q. And at any time from the time he spoke to you on August 17
25 until September 11, did he ever call you up or make any outreach

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 953

1 to you to say, hey, I lied, let me fix this?

2 MR. MAC MAHON: Your Honor, I object to that. He
3 invoked the right to counsel.

4 THE COURT: I'm sustaining that objection. Mr. Novak,
5 that was not proper.

6 MR. NOVAK: All right.

7 THE COURT: The jury should disregard the question.

8 BY MR. NOVAK:

9 Q. Now, let's go back to the search for a second, and let me ask
10 you, you seized a number of items from the search of his bags; is
11 that correct?

12 A. Yes, sir.

13 MR. NOVAK: If I could show the witness Exhibit No.
14 MN-503, please? Which I would offer into evidence.

15 THE COURT: Any objection to 503?

16 MR. MAC MAHON: I think the knife -- no, no objection,
17 Your Honor.

18 THE COURT: All right, it's in.

19 (Government's Exhibit No. MN-503 was received in
20 evidence.)

21 MR. NOVAK: I think we have a photo of it as well, do
22 we? Bad guess on my part.

23 Q. Let's go back to MN-503 for a second. Do you want to hold
24 that up?

25 Can you tell the ladies and gentlemen what that item is?

1 A. It's a knife.

2 Q. Okay. And does it unfold as well?

3 A. It does, yes, sir.

4 Q. And I gather that blade is less than 4 inches. We don't have
5 to get the ruler out for that, do we?

6 A. It is.

7 Q. All right. And where did you find that knife?

8 A. In one of Mr. Moussaoui's bags.

9 Q. Okay. Do you want to put that down?

10 If we could move to item MN-504, please?

11 THE COURT: Any objection?

12 MR. MAC MAHON: No objection, Your Honor.

13 THE COURT: All right, it's in.

14 MR. MAC MAHON: Excuse me.

15 MR. NOVAK: We have a picture of this one, too, Judge,
16 I'll show on the screen.

17 THE COURT: Is that a 504P then?

18 MR. NOVAK: Yes. Could we introduce that as well,
19 MN-504P?

20 THE COURT: Yes.

21 (Government's Exhibit Nos. MN-504 and MN-504P were
22 received in evidence.)

23 BY MR. NOVAK:

24 Q. Now, could you tell the ladies and gentlemen what item MN-504
25 is?

1 A. It's two utility tools, like pliers and various tools, but
2 also having knife blades in them.

3 Q. Could you open it up to show us what the knife blades are?

4 A. (Indicating.)

5 Q. And are those knife blades also under 4 inches?

6 A. They are, yes, sir.

7 Q. And where did you recover that item?

8 A. These were also in a bag of Mr. Moussaoui's.

9 Q. And how many are there?

10 A. There's two.

11 Q. Kind of a bigger one and a little one?

12 A. Yes, sir.

13 MR. NOVAK: Judge, could we have Mr. Wood just show it
14 to the jury a little closer? Is that possible?

15 THE COURT: Yeah. Could you take both of them,
16 Mr. Wood?

17 (Indicating.)

18 MR. NOVAK: If you could, put that aside, Mr. Wood.
19 Thank you for doing that for us.

20 Could we show the witness Exhibit MN-505, which I would
21 also offer into evidence?

22 THE COURT: Any objection?

23 MR. MAC MAHON: No objection, Your Honor.

24 THE COURT: It's in.

25 (Government's Exhibit No. MN-505 was received in

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 956

1 evidence.)

2 MR. NOVAK: I think we have a photo there, so I would
3 offer MN-505P as well.

4 THE COURT: All right, that's in as well.

5 (Government's Exhibit No. MN-505P was received in
6 evidence.)

7 BY MR. NOVAK:

8 Q. Do you want to take those items out and tell the folks what
9 they are?

10 A. These are boxing gloves, fighting gloves.

11 Q. Okay. And could you tell us where did you seize those from?

12 A. These were in a bag of Mr. Moussaoui's.

13 Q. Now, by the way, when you had gone into the hotel room, had
14 you ever seen anything like that laying out anywhere?

15 A. I had, yes, sir.

16 Q. This is when you first had contact with Mr. Moussaoui and
17 Mr. Al-Attas?

18 A. It is that first evening on the evening of August 16.

19 Mr. Al-Attas had an identical set of gloves like this.

20 Q. Thank you. If we could show the witness MN-506, please,
21 which I would also offer?

22 THE COURT: Any objection, Mr. MacMahon?

23 MR. MAC MAHON: No, no objection to the shin guards.

24 MR. NOVAK: I think we have a photo, so I'd offer
25 MN-506P as well, Your Honor.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 957

1 THE COURT: All right, that's in as well.

2 (Government's Exhibits Nos. MN-506 and MN-506P were
3 received in evidence.)

4 BY MR. NOVAK:

5 Q. Can you tell the folks what that is, Agent Samit?

6 A. These are shin guards.

7 Q. And for what?

8 A. Well, they can be used for sports, but in this case,
9 Mr. Al-Attas informed me that they were being used for fighting
10 training.

11 Q. Okay. And where did you seize those items from?

12 A. These were seized from the same bag that contained the boxing
13 gloves.

14 Q. Okay.

15 A. Mr. Al-Attas also had an identical set of these.

16 THE COURT: Thank you, Agent Samit.

17 If we could show the witness MN-507, please?

18 THE COURT: Any objection?

19 MR. NOVAK: Which I would offer that as well.

20 MR. MAC MAHON: The Court's indulgence, Your Honor?

21 No objection.

22 THE COURT: All right, it's in.

23 (Government's Exhibit No. MN-507 was received in
24 evidence.)

25 THE COURT: Is there a photograph also for that?

1 MR. NOVAK: I'd offer MN-507P in as well, Your Honor.

2 THE COURT: Yes, they're both in.

3 (Government's Exhibit No. MN-507P was received in
4 evidence.)

5 BY MR. NOVAK:

6 Q. What have you got there, Agent Samit?

7 A. These are a set of 8-by-21 field binoculars.

8 Q. Okay. And what relevance at all does that have to your
9 terrorism investigation?

10 A. It could be used by a pilot for target recognition.

11 Q. Okay. Put that aside.

12 Now, where did you find those?

13 A. They were in a backpack.

14 Q. Okay. Showing you Exhibits MN-508.1 and 508.2, which we
15 referenced earlier, the red books?

16 THE COURT: Those are already in, aren't they?

17 MR. NOVAK: Yeah, they're in, Judge.

18 Q. Did you seize those as well, Agent Samit?

19 A. Yes, sir.

20 Q. Those are the operating manual for a 747-400?

21 A. They are the aircraft operating manual volumes 1 and 2.

22 Q. Where did you seize those from?

23 A. Those were in a bag in Mr. Moussaoui's room.

24 Q. Okay. Showing you Exhibit MN-509 -- which I would offer.

25 MR. MAC MAHON: No objection to any of his belongings

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 959

1 that were searched and seized, Your Honor.

2 THE COURT: All right, that's fine.

3 (Government's Exhibit No. MN-509 was received in
4 evidence.)

5 THE WITNESS: This is the 747-400 cockpit operating
6 manual.

7 MR. NOVAK: I think we have a photo of that as well, so
8 I'd offer the P version of that, too.

9 THE COURT: That's fine. They're both in.

10 (Government's Exhibit No. MN-509P was received in
11 evidence.)

12 BY MR. NOVAK:

13 Q. Thank you, Agent Samit.

14 If you could show the witness MN-510? Which we have a
15 photo of, so I'd offer that as well as the P exhibit.

16 THE COURT: Any objection?

17 MR. MAC MAHON: No objection.

18 THE COURT: All right, 510 and P are both in.

19 (Government's Exhibit Nos. MN-510 and MN-510P were
20 received in evidence.)

21 BY MR. NOVAK:

22 Q. Do you want to tell the folks what are these items?

23 A. These were newly purchased hiking boots.

24 Q. Okay. Could you tell us in addition -- and where did you
25 find those particular boots?

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 960

1 A. These were in a bag among Mr. Moussaoui's belongings.

2 Q. Did you notice if Mr. Al-Attas had bought similar types of
3 boots?

4 A. He did, sir.

5 Q. Okay. And did you see that in the hotel that day that you
6 contacted him?

7 A. I did.

8 Q. All right. Moving on to -- by the way, was either one of
9 them wearing these boots that they had just bought?

10 A. No.

11 Q. What kind of shoes was Mr. Moussaoui wearing at the time that
12 you had contact?

13 A. Just casual loafer, slipper-type shoes.

14 Q. Okay. And by the way, he's up there in Minnesota in August;
15 is that right?

16 A. Yes, sir.

17 Q. We've already established the fact it's not snowing up there
18 in August; is that right?

19 A. It's warm there, sir.

20 MR. MAC MAHON: These questions are argumentative. Do
21 you want us to move this along and to ask some questions?
22 Counsel is arguing to the jury.

23 MR. NOVAK: I asked him if it was snowing.

24 THE COURT: I don't think snowing in August is
25 argumentative, Mr. MacMahon. I overrule the objection.

1 BY MR. NOVAK:

2 Q. Was it snowing in August in Minnesota?

3 A. No, sir.

4 THE COURT: Now, that now is cumulative, so let's move
5 on.

6 MR. NOVAK: All right. If we could show the witness
7 MN-551.1.

8 THE COURT: 555.1?

9 MR. NOVAK: 1.1.

10 THE COURT: Is there a photograph of that, too, or not?

11 MR. NOVAK: Judge, excuse me, can I talk to Gerard for
12 one second?

13 Judge, I'm told that, for Mr. Wood's benefit, that this
14 evidence is in that box on the floor under the table, to the
15 right.

16 THE COURT: This is the laptop?

17 MR. NOVAK: Yes.

18 Q. Is that the laptop?

19 A. Yes, sir. This is the laptop case, with a laptop inside.

20 Q. And is that the laptop that you had asked him consent for
21 that he had denied search?

22 A. Yes, sir.

23 MR. NOVAK: We'd offer that, 551.1, Your Honor.

24 THE COURT: All right, it's in.

25 MR. MAC MAHON: No objection, Your Honor.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 962

1 (Government's Exhibit No. MN-551.1 was received in
2 evidence.)

3 BY MR. NOVAK:

4 Q. And 551.2 is what? The case, right?

5 Agent Samit, you've got the laptop, the laptop case,
6 computer cords, and software that have been marked 551.1, 551.2,
7 551.3, and 551.4; is that right?

8 A. Yes, sir.

9 Q. I just move for all of those, Judge, instead of us rooting
10 through that box. I think it's easier just -- I just move for the
11 admission.

12 MR. MAC MAHON: And I still don't have an objection.

13 THE COURT: That's fine.

14 (Government's Exhibit Nos. MN-551.2, MN-551.3, and
15 MN-551.4 were received in evidence.)

16 MR. NOVAK: I'd like to show the witness Exhibit MN-601,
17 please.

18 THE COURT: Is there an objection to 601?

19 MR. MAC MAHON: No, Your Honor.

20 THE COURT: All right, it's in.

21 (Government's Exhibit No. MN-601 was received in
22 evidence.)

23 BY MR. NOVAK:

24 Q. Okay. Could you tell the folks what that item is? Well,
25 I'll ask you to get it out of there first.

1 And I think we have a picture, so I'm going to move in
2 601P.

3 THE COURT: All right, that's in as well.

4 (Government's Exhibit No. MN-601P was received in
5 evidence.)

6 THE WITNESS: Yes, sir. It's a small spiral-bound
7 notebook.

8 BY MR. NOVAK:

9 Q. Now, within that small spiral-bound notebook, were you able
10 to look through to see if there were names and telephone numbers
11 in it?

12 A. Yes, sir.

13 Q. And I would like to show you Exhibit, specifically MN-601.1.
14 And I think that's been marked for a photograph that's within the
15 document. Have you got that?

16 A. Yes, sir, I have it right here.

17 Q. Is that a piece of paper that was along with that notebook?

18 A. Yes, sir. It was contained within that notebook.

19 Q. All right. And could you tell us -- first of all, I'd move
20 for the admission of 601.1 and 601.1P, Your Honor.

21 THE COURT: Any objection?

22 MR. MAC MAHON: No.

23 THE COURT: They're both in.

24 (Government's Exhibit Nos. MN-601.1 and MN-601.1P were
25 received in evidence.)

1 BY MR. NOVAK:

2 Q. All right. Could you tell us, Agent Samit, what is it that
3 is written on this piece of paper?

4 A. Two telephone numbers beginning with 49, which I understand
5 to be the country code for Germany.

6 Q. Right.

7 A. The name "Ahad Sabet," and then the word "Germany."

8 MR. NOVAK: All right. If we could show the witness,
9 going back to exhibit, Government Exhibit No. 1, paragraph 14 from
10 the statement of facts.

11 Q. And I will ask you as that is brought to the screen, at any
12 point during the interview, had Mr. Moussaoui discussed with you
13 any phone numbers for this fellow named Ahad Sabet?

14 A. No.

15 MR. MAC MAHON: Your Honor, that's asked and answered
16 now for the third time. Ahad Sabet's name didn't come up, and he
17 wasn't told Ahad Sabet's name.

18 THE COURT: I'm going to sustain that objection.

19 MR. NOVAK: I'll withdraw it.

20 THE COURT: That's cumulative.

21 MR. NOVAK: All right. If we could move on to MN-601.2,
22 please.

23 THE COURT: Is there a P for this as well?

24 MR. NOVAK: I guess there is, so I'm going to ask
25 that -- I offer 601.2 and P.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 965

1 THE COURT: They're both in.

2 (Government's Exhibit Nos. MN-601.2 and MN-601.2P were
3 received in evidence.)

4 BY MR. NOVAK:

5 Q. And can you tell us what that -- do you have it there?

6 A. Yes, sir, I do.

7 Q. Okay. Do you want to hold that up and tell the folks what
8 that is?

9 A. It's a page from that notebook, and it has a German telephone
10 number, a second German telephone number with the word "fax"
11 written next to it.

12 Q. Okay. If we could move on to MN-601.3, please?

13 THE COURT: And there's a P for that one as well, and I
14 assume there's no objection.

15 MR. MAC MAHON: No objection, Your Honor.

16 THE COURT: Is this whole 601 series pages from the
17 notebook?

18 MR. MAC MAHON: That's my understanding, Your Honor.

19 MR. NOVAK: Right. And I'm going to stop right now with
20 this.

21 THE COURT: All right.

22 MR. NOVAK: It's going to be the last 601. After we
23 read this, Judge, I'm going to try to do it in a much more
24 economical fashion here.

25 (Government's Exhibit Nos. MN-601.3 and MN-601.3P were

1 received in evidence.)

2 BY MR. NOVAK:

3 Q. Can you tell the folks what this particular piece of paper
4 is?

5 A. This contains specification serial numbers for what looks
6 like a Toshiba computer.

7 Q. All right. Moving on now to Exhibit No. 603, please.

8 A. It's a scrap of paper with two telephone numbers on it.

9 Q. Okay. And do you -- first of all, I would move for the
10 admission of MN-603, please.

11 THE COURT: Any objection to 603?

12 MR. MAC MAHON: No objection, Your Honor.

13 THE COURT: All right, it's in.

14 (Government's Exhibit No. MN-603 was received in
15 evidence.)

16 BY MR. NOVAK:

17 Q. And are you able to tell from the numbers there, those
18 telephone numbers go to what country?

19 A. The top one appears to be a U.K., United Kingdom, London
20 exchange. I don't know about the bottom one.

21 Q. All right. Why is it that you say the top one is for United
22 Kingdom?

23 A. 207 I was familiar with as being a London exchange.

24 Q. Okay. Now, if we could move on to Exhibits MN-604.1 and
25 604.2.

1 THE COURT: Any objection?

2 MR. MAC MAHON: No, Your Honor.

3 THE COURT: They're both in.

4 (Government's Exhibit Nos. MN-604.1 and 604.2 were
5 received in evidence.)

6 BY MR. NOVAK:

7 Q. And I would just ask you, are those rent receipts that you
8 found in the name of Zacarias Moussaoui?

9 A. Yes, sir. The one, 604.2, just says "Moussaoui."

10 Q. Okay. And does it provide an address for those rent
11 receipts?

12 A. Yes, sir.

13 Q. And what was the address for those rent receipts?

14 A. 823 Monnett, South.

15 Q. Okay. And where was that located at?

16 A. In Norman, Oklahoma.

17 Q. All right. If we could move to 605.1 and .2, please?

18 THE COURT: Any objection?

19 MR. MAC MAHON: No, Your Honor.

20 THE COURT: All right, they're in as well.

21 (Government's Exhibit Nos. MN-605.1 and MN-605.2 were
22 received in evidence.)

23 BY MR. NOVAK:

24 Q. Do you see those items, Agent Samit?

25 A. Yes, sir.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 968

1 Q. And are those electric service bills?

2 A. They are utility bills for that --

3 Q. That same address?

4 A. For that same address.

5 Q. Okay. Were you aware that Mr. Moussaoui had any contact with
6 this address in Oklahoma, the Monnett, South?

7 A. No, sir.

8 MR. NOVAK: If we can move on to Exhibit MN-606, please.
9 And we'd offer that as well.

10 THE COURT: Any objection?

11 MR. MAC MAHON: No objection, Your Honor.

12 THE COURT: All right, it's in.

13 BY MR. NOVAK:

14 Q. Do you just want to tell the Court what that is? `

15 A. I don't think I have 606 here.

16 Q. All right.

17 MR. MAC MAHON: I may have an objection if he doesn't
18 have it, Your Honor.

19 (Laughter.)

20 MR. NOVAK: I'll tell you what, Judge, I don't want to
21 slow down. I'll just move on. That's not the most important
22 document here, so we'll come back to it if he can't find it.

23 Q. Let me ask you while he's looking, during your search, did
24 you come up with automobile insurance documents under
25 Mr. Moussaoui's name for a Ford Tempo?

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 969

1 A. For a Ford Tempo, yes, sir.

2 Q. Yeah. And would that have been the item that's marked 606?

3 A. I don't, I don't know. It's not here.

4 Q. All right, we'll come back to that later on.

5 Showing the witness MN-607--

6 THE COURT: At this point, 606 is not in evidence.

7 MR. NOVAK: Yes, Judge.

8 THE COURT: 607, is there any objection to 607?

9 MR. MAC MAHON: No, Your Honor. No, Your Honor.

10 (Government's Exhibit No. MN-607 was received in
11 evidence.)

12 BY MR. NOVAK:

13 Q. Do you find 607 there?

14 A. Yes, sir, I have it here.

15 Q. Can you tell the ladies and gentlemen what Exhibit MN-607 is?

16 A. It is a Kinko's, receipt for Kinko's in Eagan, Minnesota.

17 Q. Dated what date?

18 A. Dated August 12, 2001.

19 Q. Exhibit MN-608, which I would offer --

20 A. I have it here.

21 THE COURT: Any objection?

22 MR. MAC MAHON: No, Your Honor.

23 THE COURT: All right, it's in.

24 (Government's Exhibit No. MN-608 was received in
25 evidence.)

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 970

1 BY MR. NOVAK:

2 Q. Would you tell the ladies and gentlemen what MN-608 is,
3 please?

4 A. It's a guest pass to the YMCA of greater St. Paul for the
5 Residence Inn.

6 Q. And do you know if that YMCA has physical fitness training
7 there?

8 A. It does. It has a weight room and the ability to conduct
9 that.

10 Q. Okay. Showing you MN-610, which I would offer.

11 A. I have it.

12 THE COURT: Any objection?

13 MR. MAC MAHON: No, Judge.

14 THE COURT: That's in.

15 (Government's Exhibit No. MN-610 was received in
16 evidence.)

17 BY MR. NOVAK:

18 Q. Do you want to tell the folks what MN-610 is?

19 A. That is a hotel bill for the Residence Inn at the -- in
20 Norman, Oklahoma.

21 Q. All right.

22 A. In the name of Zacarias Moussaoui for the dates -- for the
23 date 23 February '01.

24 Q. Okay. As I move on to MN-611, which I think you have there,
25 I would ask Mr. Wood, I am told that MN-606 might be in a box on

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 971

1 the floor, but I'll ask you, Agent Samit, to look for MN-611, if
2 you might.

3 A. I don't think that's in here, either.

4 Q. Okay. We'll wait then for Mr. Wood.

5 A. Here's 606, yes.

6 Q. What's MN-606?

7 A. This is insurance paperwork pertaining -- in the name of
8 Zacarias Moussaoui pertaining to a 1989 Ford Tempo.

9 Q. Did you know before you searched that day that he had owned a
10 car before?

11 A. He had told us that he had a Ford Tempo. I didn't have the
12 specifics on it.

13 Q. Okay. Now, I think we're back to MN-611.

14 Judge, I'm sorry, I think I omitted to move in MN-606.

15 THE COURT: There was no objection now that we've found
16 the exhibit, so 606 is in.

17 (Government's Exhibit No. MN-606 was received in
18 evidence.)

19 THE COURT: We're up to 611. Is there any objection to
20 611?

21 MR. MAC MAHON: No, Judge, thank you.

22 THE COURT: All right, that's in.

23 (Government's Exhibit No. MN-611 was received in
24 evidence.)

25 BY MR. NOVAK:

1 Q. Do you want to tell us what 611 is?

2 A. We don't have it yet.

3 Q. Oh, you don't have it? Okay.

4 MR. NOVAK: Judge, I think Mr. Francisco could aid
5 finding some of these items, if Mr. Wood would like the help.

6 THE COURT: You know, I'm looking at a lot of these, and
7 I don't think we even need to take up the jury's time with this.
8 They're not objected to, and we could just move them in down the
9 road. Why don't we continue --

10 MR. NOVAK: That's fine if we could do it that way. Can
11 I just collectively -- look, we've made all the exhibits available
12 to the defense. They have the list. If I could just collectively
13 move -- I'll just read off the numbers?

14 THE COURT: Read it slowly, yeah.

15 And, Mr. MacMahon, unless you stand up and say --

16 MR. MAC MAHON: There's been a trend to my objections,
17 Your Honor.

18 THE COURT: I know. I know. And most of these are
19 just, as I can see from your list of them, they're confirming
20 residencies at hotels --

21 MR. NOVAK: That's fine.

22 THE COURT: -- rentals of post office boxes, that kind
23 of stuff, over which there apparently is no dispute.

24 MR. NOVAK: That's fine. We just want to make sure this
25 evidence is entered. I'll just read off the numbers if I might,

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 973

1 Your Honor. I'll try to do it slowly.

2 THE COURT: All right. You stopped at 611.

3 MR. NOVAK: MN-611.

4 THE COURT: All right. Go ahead.

5 MR. NOVAK: MN-612.1.

6 THE COURT: Go ahead.

7 MR. NOVAK: MN-612.2.

8 THE COURT: Go ahead.

9 MR. NOVAK: MN-613.

10 THE COURT: Go ahead.

11 MR. NOVAK: MN-614.

12 THE COURT: And .1 and .2?

13 MR. NOVAK: Yes, Your Honor.

14 THE COURT: Go ahead.

15 MR. NOVAK: MN-615; MN-616; MN-617 and 617.1, .2, .3,
16 and .4; 618.

17 THE COURT: All right, go ahead.

18 MR. NOVAK: 619, 620.1 and .2. And I'd like to ask some
19 questions of the witness on that if I might, Judge. That is
20 something that I'd like to bring up. May I do so now, or do you
21 want me to come back to that?

22 THE COURT: Why don't you just finish them so then we
23 can just go to the questions.

24 MR. NOVAK: Okay. MN-621.

25 THE COURT: All right.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 974

1 MR. NOVAK: MN-622; MN-623; MN-624; MN-625.1, .2, .3;
2 MN-626.1 and .2; MN-627; MN-628; MN-629.1, .2, .3; MN-630.1, .2,
3 .3, and .4.

4 MN-633; MN-634; MN-637; MN-638; MN-639.1, .10, .11, .12,
5 .13, .14, .2, .3, .5, .6 --

6 THE COURT: I'm sorry, not .4?

7 MR. NOVAK: We already introduced that, Judge, earlier.

8 THE COURT: Okay. It's already in.

9 MR. NOVAK: .6, .7, .8, .9. MN-640; MN-641; MN-642.1,
10 .2, .3, .4, .5, .6, .7. MN --

11 MR. MAC MAHON: Hold on one second.

12 (Discussion between attorneys off the record.)

13 MR. NOVAK: Judge, I'm representing to Mr. MacMahon that
14 all these items were found by Agent Samit in Mr. Moussaoui's
15 contents.

16 THE COURT: In his bags?

17 MR. NOVAK: In his bags.

18 MR. MAC MAHON: Just being sure we're not dealing with
19 documents from another search.

20 MR. NOVAK: I just want to put in the record, he's
21 whispering to me, I just want to make it clear what it is that I'm
22 responding to.

23 And now I lost my number.

24 THE COURT: The last one was 642.7.

25 MR. NOVAK: Okay. 6.3.01.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 975

1 THE COURT: No, no, 643.

2 MR. NOVAK: Yeah, 643.01, 643.02, .03, 04, 05, 06, 07,
3 08, 09, and .10.

4 644; 645.1 and .2; 646; 647; 648; 649; 650; 651; 652;
5 653.1, .2; 654.1, .2; 655.1; 655.2; 656; 657; 658; 659.1, .2;
6 660.1 and .2; 661.1, .2, .3; 662.1 and .2 and .3; 663.1 and .2;
7 664; 666 --

8 THE COURT: Because 665 is already in, right?

9 MR. NOVAK: Right. I think -- well, no, I think --

10 THE COURT: Or did you miss that one?

11 MR. NOVAK: I think I just did not introduce that one,
12 Judge. 667 --

13 THE COURT: I'm sorry, are you trying to put in 665 as
14 well?

15 MR. NOVAK: No, no.

16 THE COURT: All right.

17 MR. NOVAK: I'm sorry, 666, 667, 668, 669, 670, 671,
18 672, 674 --

19 THE COURT: All right, not 673?

20 MR. NOVAK: No.

21 THE COURT: All right.

22 MR. NOVAK: 676.1 and .2.

23 Now, Judge, there are a couple of these items that we --
24 again, all those items were recovered from Mr. Moussaoui's bags,
25 and I'd like to go back and refer -- get some detailed testimony

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 976

1 on a couple of the items if I might.

2 MR. MAC MAHON: No objection to any of them.

3 THE COURT: Just for the record, all the ones that were
4 just listed by Mr. Novak are in evidence.

5 MR. NOVAK: Thank you, Judge.

6 MR. MAC MAHON: All right.

7 (Government's Exhibits Nos. MN-612.1, MN-612.2, MN-613,
8 MN-614, MN-614.1, MN-614.2, MN-615, MN-616, MN-617, MN-617.1
9 through MN-617.4, MN-618, MN-619, MN-620.1, MN-620.2, MN-621,
10 MN-622, MN-623, MN-624, MN-625.1 through MN-625.3, MN-626.1,
11 MN-626.2, MN-627, MN-628, MN-629.1 through MN-629.3, MN-630.1
12 through MN-630.4, MN-633, MN-634, MN-637, MN-638, MN-639.1,
13 MN-639.10 through MN-639.14, MN-639.2, MN-639.3, MN-639.5 through
14 MN-639.9, MN-640, MN-641, MN-642.1 through MN-642.7, MN-643.01
15 through MN-643.10, MN-644, MN-645.1, MN-645.2, MN-646 through
16 MN-652, MN-653.1, MN-653.2, MN-654.1, MN-654.2, MN-655.1,
17 MN-655.2, MN-656, MN-657, MN-658, MN-659.1, MN-659.2, MN-660.1,
18 MN-660.2, MN-661.1 through MN-661.3, MN-662.1 through MN-662.3,
19 MN-663.1, MN-663.2, MN-664, MN-666 through MN-672, MN-674,
20 MN-676.1, and MN-676.2 were received in evidence.)

21 BY MR. NOVAK:

22 Q. I'd ask you, Mr. Samit, to bring up MN -- to look at
23 MN-620.1, and could you tell the ladies and gentlemen what that
24 item is?

25 A. It's a declaration for a replacement passport.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 977

1 Q. Now --

2 A. In French.

3 Q. Is that in French?

4 A. It is.

5 MR. NOVAK: Your Honor, with the agreement of counsel,
6 we have attached it at -- attached a translation from French into
7 English which we'd mark 620.1T, which we would offer as well
8 attendant to that exhibit.

9 THE COURT: All right. So 620.1T is also in evidence.

10 (Government's Exhibit No. MN-620.1T was received in
11 evidence.)

12 BY MR. NOVAK:

13 Q. Now, based upon a translation, could you tell the folks what
14 is that item and -- I'm sorry, go ahead.

15 A. Yes, sir. This document is a declaration of the loss of a
16 passport, French passport in the name of Zacarias Moussaoui, date
17 of birth, 5-30-1968.

18 Q. And what is the date that the declaration of loss was filed
19 on?

20 A. This was filed on March 18 of 1999.

21 Q. And does it -- does the -- that form by the French government
22 require the person making that request for a new identification
23 card to identify what happened to their old passport?

24 A. It does.

25 Q. And what does -- what is written in this section as for the

1 explanation?

2 A. Under circumstances, it says "information on the
3 disappearance of the documents." Under circumstances, it
4 says "paper damaged."

5 Q. Okay. On Exhibit 620.2, is that a similar French
6 declaration?

7 A. Yes, sir.

8 MR. NOVAK: Judge, and there's also a similar
9 translation, which we would offer, 620.2T, by an agreement of
10 counsel.

11 THE COURT: All right, that is also in evidence then.

12 (Government's Exhibit No. MN-620.2T was received in
13 evidence.)

14 BY MR. NOVAK:

15 Q. Sorry.

16 A. I'm caught up with you now. Yes, sir, it is another
17 declaration.

18 Q. And what is the date of that declaration?

19 A. This one is dated March 30 of 1999.

20 Q. So about two weeks after the other one you just looked at, is
21 that right?

22 A. Yes, sir.

23 Q. And is this also completed by Mr. Moussaoui?

24 A. It is.

25 Q. And what is he asking to replace this time instead of the

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 979

1 passport? Is there something else?

2 A. He is asking for a replacement of his national ID card.

3 Q. And is there a statement by him as to what the reason for the
4 loss of his old national identification card was?

5 A. Under "information on the disappearance of the documents," it
6 says "circumstances unknown."

7 Q. Okay. Could you move to MN-621 and 622 and tell us what
8 those two items are?

9 A. 621 is a, is a French national identity card.

10 Q. In whose name?

11 A. Zacarias Moussaoui.

12 Q. And does it have his date of birth on there?

13 A. It does.

14 Q. What's his date of birth?

15 A. 30th of May, 1968.

16 Q. So how old would he have been then when he had contact with
17 you on August 16 then?

18 A. 33.

19 Q. All right. And 622 is what? MN-622, do you have that as
20 well?

21 A. It is -- I do. It is a French national identity card.

22 Q. It's another identity card; is that right?

23 A. Yes.

24 Q. All right. 624, please, MN-624. Could you tell us what that
25 is?

1 A. This is an international student identity card.

2 Q. And in whose name?

3 A. Moussaoui, Z.

4 Q. Does it have his picture on there as well?

5 A. It does, it does bear his photograph.

6 Q. Are you familiar with international student cards?

7 A. Passingly familiar.

8 Q. Okay. Do you know what they're for then? Can you tell us?

9 A. They're for students traveling abroad that identifies them as
10 a student in a variety of languages.

11 Q. Okay. Did Mr. Moussaoui ever tell you why at the age of 33
12 he's got a student identification card?

13 A. He did not.

14 MR. MAC MAHON: Your Honor, that's not even in the
15 statement of facts. Now we're getting into questions he didn't
16 ask him about things he found later that aren't in the statement
17 of facts. It's just grossly irrelevant.

18 THE COURT: Well, is it relevant to the issues in the
19 case?

20 MR. NOVAK: Well, sure it's relevant, for all the use of
21 multiple identifications that this defendant has. It's consistent
22 with Agent Anticev's testimony.

23 MR. MAC MAHON: It's in his name.

24 THE COURT: Usually multiple identifications are
25 relevant in a criminal case if they have distortions of name or

1 birth date or have other false information that could be
2 misleading or trying to cover up their identity. Does this have
3 that sort of information?

4 MR. NOVAK: No, but what it does, it consists of
5 parallel conduct, is if we put forward evidence that the other
6 hijackers on September 19 (sic) did exactly the same thing, and
7 Mr. Raskin put that in, and this is parallel conduct, that he
8 acted the same as the other hijackers.

9 THE COURT: All right. Then I'll overrule the
10 objection.

11 MR. NOVAK: Thank you, Judge.

12 Q. So the answer was did he ever tell you why at the age of 33,
13 he had the international student identity card?

14 A. No, sir.

15 Q. 630.1, .2, and .3, and .4.

16 A. Yes, sir.

17 Q. Do you want to tell the folks what those items are?

18 A. These are small wallet size or passport size photographs of
19 Mr. Moussaoui.

20 Q. And how many of those exist there?

21 A. Six.

22 Q. Six photos? And they're all of Mr. Moussaoui?

23 A. They are.

24 Q. Okay. You can put those aside.

25 Bring up MN-640.

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 982

1 And, Judge, I think we have MN-640 as a photo, which I'd
2 also introduce MN-640P then. If we can bring it up on the screen.

3 THE COURT: All right, 640P is also in.

4 (Government's Exhibit No. MN-640P was received in
5 evidence.)

6 BY MR. NOVAK:

7 Q. Do you want to find 640 there while we have this on the
8 screen?

9 A. I have it.

10 Q. Okay. Could you tell us what MN-640 is?

11 A. This is a receipt -- customer receipt of a Western Union
12 money transfer.

13 Q. And what is the date of that wire transfer?

14 A. The date is August 4 of 2001.

15 Q. And who is the receiver of the money that's identified on
16 that wire transfer?

17 A. Zacarias Moussaoui.

18 Q. And who is the sender as reported on that receipt?

19 A. Ahad Sabet.

20 Q. And can you tell us what are the amounts of money, the total
21 amount of money that was wire-transferred to Mr. Moussaoui from
22 Ahad Sabet on August 4?

23 A. \$4,063.25.

24 Q. All right. And does it indicate where it is that

25 Mr. Moussaoui collected the receipt -- I'm sorry, let me step back

1 and ask this question in English: Does that document indicate
2 where the receipt is from, where Mr. Moussaoui was able to collect
3 that money?

4 A. It does. Pratt Foods No. 7, 1205 East Lindsey, P.O. Box 308,
5 Shawnee, Oklahoma.

6 Q. Thank you. You can put that aside.

7 Take a look at MN-644.

8 I think we have a picture of that, Judge. I ask that
9 that be marked as MN-644P, and I'd offer that.

10 THE COURT: All right, that's also in.

11 (Government's Exhibit No. MN-644P was received in
12 evidence.)

13 THE WITNESS: I have it, sir.

14 BY MR. NOVAK:

15 Q. Can you tell the folks what that item is?

16 A. This is the, this is the applicant's copy of a medical
17 certificate for a student pilot.

18 Q. Okay. Can we scroll down a little bit further to the middle
19 section here?

20 And when you testified about back when you received your
21 PPL, you had to get a medical certificate; is that right?

22 A. That's correct, sir.

23 Q. And is this similar to the type of certificate that you
24 received?

25 A. It is.

1 Q. And now on that -- and who is this medical certificate for
2 from the FAA?

3 A. Zacarias Moussaoui.

4 Q. And is there a date on that medical certificate?

5 A. There is down at the bottom. It looks like March 1 of 2001,
6 bottom right.

7 Q. Okay. I'm sorry, did you say you could read that?

8 A. I can. It says 03/01/2000, March 1.

9 Q. Okay. Now, I'm going to ask you to look at section M, when
10 it says yes or no. What does it ask for whether there's any type
11 of symptom of?

12 A. Frequent or severe headaches.

13 Q. No, M, M as in Mary?

14 A. I'm sorry, M. Mental disorders of any sort, depression,
15 anxiety, etc.

16 Q. And was there any indication of a mental disorder on that
17 certificate?

18 A. No, sir.

19 Q. Thank you, you can put that aside. Moving on to 655.2,
20 please.

21 I'll tell you what, I'm going to withdraw that request.
22 It will make it easier on Mr. Wood, who I think I'm torturing over
23 there. Could we show the witness MN-663.1 and .2?

24 A. 663.1 and .2?

25 Q. Yes.

1 THE COURT: Mr. Novak, I mean, the level of detail, I
2 think, is becoming unnecessary. These items speak for themselves.
3 The jury will figure out what that is.

4 MR. NOVAK: Judge, there's a couple of items of physical
5 evidence here -- these are hand-held exercises. We think these
6 are important --

7 THE COURT: But they don't need to have any discussion.
8 They're already in evidence, and you can argue from them down the
9 road. Let's just start moving this along.

10 MR. NOVAK: May I just have a moment to look at my notes
11 for a second? Let me see if there's anything else.

12 Just a couple things.

13 Q. MN-674. This will actually be the last thing, Judge, I'll
14 ask about.

15 THE COURT: All right.

16 MR. NOVAK: It's a notebook. It's in the box, I'm told.

17 THE COURT: Is there something in this exhibit?

18 MR. NOVAK: Yes, there's a particular page that I want
19 to bring out, Judge.

20 THE COURT: That's fine.

21 MR. NOVAK: Again, this will be the last item that I'll
22 talk about.

23 THE COURT: It's a subject notebook, like a student's
24 notebook, Mr. Wood.

25 MR. NOVAK: Similar to the one that's in Mr. Wood's hand

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 986

1 right now, 674.

2 THE COURT SECURITY OFFICER: 72.

3 THE COURT: There are several of them there, Mr. Wood,
4 but he wants one particular one, 674. It should be blue.

5 THE COURT SECURITY OFFICER: It's not in this bunch.

6 MR. NOVAK: All right, Judge. That's fine. I'll just
7 move on. We'll save it for argument.

8 Q. Now, in addition, Agent Samit, in addition to the search
9 warrant that you procured of Mr. Moussaoui's personal items that
10 were held in the INS storage, did you also assist in other agents
11 in Oklahoma procuring a search warrant?

12 A. Yes, sir.

13 Q. And how does that work with the FBI in terms of other
14 locations within the country doing investigative work on your
15 behalf?

16 A. When they're doing it on our behalf, we will communicate the
17 specifics to them. In the case where we need a search warrant,
18 we'll provide them with similar facts to what we used in our
19 search warrant and transmit it to them so that they can go to
20 their judicial district, their district court and draw up a search
21 warrant that can be signed by a magistrate there.

22 Q. And for what location did you ask your fellow colleagues down
23 in Oklahoma to search?

24 A. The 209A Wadsack apartment.

25 Q. And was that done then?

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 987

1 A. It was, yes, sir.

2 Q. Now, on September 14 of 2001, was Mr. Moussaoui transported
3 to another location outside of Minnesota?

4 A. He was.

5 Q. And where was he transported to?

6 A. To the Southern District of New York.

7 Q. And before he was transported, did you-all take a picture of
8 him?

9 A. We did.

10 Q. And is that GX-3, we'd ask be shown.

11 I'd just offer GX-3. It's a photograph. We don't have
12 to bring it up on the screen?

13 THE COURT: All right, it's in evidence.

14 (Government's Exhibit No. GX-3 was received in
15 evidence?)

16 MR. NOVAK: Is there any objection from Mr. MacMahon?

17 MR. MAC MAHON: No objection, Your Honor.

18 MR. NOVAK: Judge, with that, I have no further
19 questions of Agent Samit.

20 THE COURT: All right.

21 MR. MAC MAHON: Your Honor, if we could have the jury
22 out of the room for a second? We have a brief motion that
23 Mr. Zerkin and I would like to make.

24 THE COURT: Well, I'll tell you what: It's 5:10. It's
25 been a long day and, I think, a long week, and I expect this cross

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 988

1 examination will go more than 20 minutes.

2 MR. MAC MAHON: It will, Your Honor.

3 THE COURT: All right. I think this is a logical time
4 then to end for today, and, ladies and gentlemen, as you know, you
5 have tomorrow off.

6 Now, you can go back to work and resume your normal
7 lives. Just be sensitive to the fact that if people ask you about
8 what you've been doing, you are clearly under an order from this
9 Court that you cannot in any respect discuss this case or your
10 service as a juror, and you'll have to be careful over the long
11 weekend to avoid any media coverage about the case.

12 I am not able to get any kind of HOV passes for you-all.
13 We did check with the marshals. That's just not something that's
14 very easily done. You'd have to be driving a police car to get
15 one, and none of you is doing that.

16 Again, I suggest if some of you can carpool, that might
17 alleviate some of that problem, but we do appreciate the fact that
18 many of you are driving long distances and that you have been here
19 on time. It's an excellent group of people. So we thank you for
20 that, and we'll see you back here Monday morning at 9:30.

21 We will stay in session to address this issue.

22 (Jury out.)

23 MR. MAC MAHON: He can be excused, Your Honor.

24 THE COURT: Yes. Agent, thank you. We'll need you back
25 here, obviously, Monday at 9:30, and clearly, do not discuss your

3-9-06

U.S. v. MOUSSAOUI

Vol. IV-A

Page 989

1 testimony with anyone.

2 THE WITNESS: Yes, Your Honor.

3 (Witness stood down.)

4 MR. MAC MAHON: If it please the Court, this defense
5 team has been working, as you know, under extreme circumstances
6 trying to put this case together in a fair way, and this question,
7 everything's been -- every question and answer has been scripted
8 in this case. Some of these witnesses are answering before
9 they're asked. And this, this comment about Moussaoui's
10 invocation of his right is the most unprofessional and improper,
11 unconstitutional question I've ever heard of, much less coming in
12 the penalty phase of a death penalty case.

13 And Mr. Zerkin has prepared, since this is his
14 expertise -- I'd like to turn this over to him, Your Honor.

15 THE COURT: We're not going to argue this case now. I'm
16 fully --

17 MR. MAC MAHON: Your Honor, he has a motion to make.

18 THE COURT: Wait a minute, no.

19 MR. MAC MAHON: And if the Court would listen for one
20 second, it's important.

21 THE COURT: Well, let me hear the motion before I hear
22 the speech.

23 MR. MAC MAHON: Thank you, Your Honor.

24 MR. ZERKIN: The motion, Your Honor, is a motion for a
25 mistrial, and it is due to the premeditated, flagrant, intentional

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1029

1 UNITED STATES DISTRICT COURT
 2 FOR THE EASTERN DISTRICT OF VIRGINIA
 3 ALEXANDRIA DIVISION

4 UNITED STATES OF AMERICA, . Criminal No. 1:01cr455
 .
 5 vs. . Alexandria, Virginia
 . March 20, 2006
 6 ZACARIAS MOUSSAOUI, . 9:30 a.m.
 a/k/a Shaqil, a/k/a .
 7 Abu Khalid al Sahrawi, .
 .
 Defendant. .
 .

8
 9

10 TRANSCRIPT OF JURY TRIAL
 11 BEFORE THE HONORABLE LEONIE M. BRINKEMA
 12 UNITED STATES DISTRICT JUDGE
 13 VOLUME VI

14 APPEARANCES:

15 FOR THE GOVERNMENT:

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COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1033

1 (No response.)

2 THE COURT: Oh, you have been wonderful, all right. I
3 had complete confidence that you would be able to abide by my
4 instructions. I'm very pleased that you have been able to.

5 Now, the second thing is you had asked us for a glossary
6 of terms. We have that glossary ready at this point. I would
7 like to give each one of you that list. Please keep it with your
8 notebooks. Obviously, don't take it home, but hopefully that will
9 assist you at least in having some spellings. And you can jot
10 notes on that sheet. It is for your own information, but we want
11 you to leave it here when we're not in session, all right?

12 Then if there is nothing further -- now, I can tell from
13 the noise I'm hearing in chambers and the temperature in here that
14 we're again having some issues with our air-conditioning and
15 heating system. If any of you are starting to get uncomfortable,
16 let me know. We have already put a call in to the building folks,
17 so I'm aware that things are a bit chilly in here, but we will do
18 the best we can for you. All right?

19 All right. Mr. MacMahon, you were going to begin with
20 the cross-examination of Agent Samit, correct? So he needs to be
21 brought back in.

22 HARRY SAMIT, GOVERNMENT'S WITNESS, PREVIOUSLY AFFIRMED, RESUMED

23 THE COURT: Agent Samit, you are still under your
24 affirmation from a week ago when you were last on the stand, or
25 ten days ago, whenever it was. All right?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1034

1 THE WITNESS: Yes, Your Honor.

2 MR. MAC MAHON: May I proceed, Your Honor?

3 THE COURT: Yes, sir.

4 CROSS-EXAMINATION

5 BY MR. MAC MAHON:

6 Q. Agent Samit, you spent a lot of time with Mr. Novak preparing
7 your testimony in this case, didn't you?

8 A. I spent some time with him, yes, sir.

9 Q. How much time?

10 A. Preparing testimony?

11 Q. Yes, sir.

12 A. Three visits to the Eastern District.

13 Q. And did you go through how you were going to testify in the
14 case, questions and answers and --

15 A. He asked questions, and I provided answers, yes, sir.

16 Q. Did you hear any questions when we were in court last week
17 that you hadn't heard in preparation?

18 A. Oh, yes, sir.

19 Q. You did?

20 A. (Nodding head.)

21 Q. And you refused to talk to me about your testimony in this
22 case; is that right?

23 A. Yes, sir.

24 Q. Okay. Now, your training as an FBI agent, tell us about what
25 training you got to become a member of the Joint Terrorism Task

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1035

1 Force in Minnesota.

2 A. There was no training before becoming a member. I was
3 assigned there. Primarily based on my background with
4 intelligence in the military. Once I reached the Joint Terrorism
5 Task Force, I attended numerous in-service trainings, anywhere
6 from a day to a week in international terrorism.

7 Q. Did you study al Qaeda before you became an agent?

8 A. I did. Before I became an agent?

9 Q. Well, before you became a member of the Joint Terrorism Task
10 Force, did you study al Qaeda?

11 A. No, sir.

12 Q. Did you have any classes in your course to become an agent --
13 to become a member of the task force to learn anything about
14 al Qaeda?

15 A. Before I became a member of the task force, no, sir.

16 Q. Okay. Well, how about after you became a member of the task
17 force and before you actually encountered Mr. Moussaoui?

18 A. Yes, sir. I had -- I attended the IT and FCI basic course,
19 during which we discussed al Qaeda.

20 Q. Okay. And I don't know what those initials are.

21 A. International terrorism and foreign counterintelligence, it
22 was a week-long in-service. One class in that, during that
23 week-long training focused on terrorist groups, including
24 al Qaeda.

25 Q. Okay. And did you, did you learn or hear any speeches of

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1036

1 Usama Bin Laden or read translations of them?

2 A. Did we hear of any speeches? No, sir.

3 Q. Did you read any materials, any propaganda materials from
4 al Qaeda?

5 A. No, sir.

6 Q. You learned that one way that al Qaeda members traveled to
7 Afghanistan in that time, you learned, was to go through Pakistan,
8 correct?

9 A. Not through the in-service. Through other case work before
10 meeting Mr. Moussaoui I learned that.

11 Q. What case work was that?

12 A. Well, I can't go into other investigations, sir. Some of
13 those remain classified, the specific details. What I will say is
14 that I had investigations of people who were connected to
15 Afghanistan and Pakistan who had traveled into Afghanistan through
16 Pakistan in a very similar fashion.

17 Q. All right. So you knew before you met Mr. Moussaoui that a
18 Muslim fundamentalist who had a passport with a Pakistani -- an
19 indication that recent travel had been to Pakistan was someone who
20 you ought to have a whole lot of interest in, right?

21 A. Yes, sir.

22 Q. And you knew that long before you met Moussaoui, right?

23 A. Within a year or so before I met Moussaoui.

24 Q. And you were trained to learn the difference between a
25 regular Muslim and a Muslim fundamentalist, too, weren't you?

1 A. A radical, yes, sir.

2 Q. Right. And one of those, I think you testified, was that
3 they prayed five times a day? That was one of the things you were
4 taught to look for?

5 A. No, sir. Even devout Muslims who are not radical pray five
6 times a day.

7 Q. But when you found out that Mr. Moussaoui prayed five times a
8 day, you thought that meant he was a terrorist, right?

9 A. No, sir.

10 Q. You didn't testify to that last week?

11 A. Certainly the five times a day would have increased the fact
12 that he was a religious Muslim. What made me think he was a
13 radical were his statements and certainly Mr. al-Attas's
14 statements concerning the fact that he wanted to kill non-Muslims.
15 That was what made me think he was a terrorist.

16 Q. And that was the first day, right?

17 A. Yes, sir.

18 Q. Now, let me just ask you a couple other questions about how
19 the FBI is organized. As a field agent are you free to do, take
20 any action you want if headquarters tells you to do otherwise?

21 A. No, sir.

22 Q. And, in fact, you are supposed to call headquarters when you
23 get a significant investigation, correct?

24 A. Notify them in some fashion quickly, calling or e-mailing.

25 Q. Okay. And then would you have direct access to somebody in

1 headquarters to call, for example, if you learned that someone
2 that fit Mr. Moussaoui's description was taking flight simulator
3 training in Minneapolis?

4 A. Yes, sir.

5 Q. Okay. And you didn't tell the jury anything about those
6 kinds of phone calls in your testimony last week, did you?

7 A. No, sir.

8 Q. Okay. And you did have those phone calls, didn't you?

9 A. Yes, sir.

10 Q. Right. And you were told not to arrest Mr. Moussaoui. You
11 were directly told that, weren't you?

12 A. No, sir.

13 Q. Joe Manarang told you not to arrest Mr. Moussaoui?

14 A. Joe Manarang, sir, raised the point that maybe we should
15 consider not arresting Mr. Moussaoui and bringing surveillance
16 assets to Minneapolis in order to surveil him. I persuaded him
17 otherwise.

18 Q. Okay. Now, you knew before you arrested Mr. Moussaoui that
19 Mr. Manarang thought the better course of action was not to arrest
20 him and surveil him and find out everywhere he went, right?

21 A. Mr. Manarang wasn't advised of all the facts, sir, the
22 primary fact being that we had already notified the hotel clerk
23 that we were law enforcement and that we were interested in
24 Mr. Moussaoui. Once he became aware of that fact and the
25 possibility then that Mr. Moussaoui could have been tipped off, he

1 revised his thinking.

2 Q. Right. And you also knew that if you hadn't arrested
3 Mr. Moussaoui, Mr. Manarang said because he was a foreign
4 national, you could have gone into his hotel room and searched it
5 while he was off at school, right?

6 A. Not without an order, sir, either a FISA order or a search
7 warrant.

8 Q. But you knew before you arrested Mr. Moussaoui that one of
9 the options you could have taken was to have waited while he went
10 to school and tried to get a warrant to go search his hotel room,
11 right?

12 A. Yes, sir.

13 Q. Right. And if you had done that, you would have obtained
14 every item of information in the hotel room without alerting him
15 of a thing, right?

16 A. If we had obtained the warrant, yes, sir, but that would have
17 been the key, the obtaining of the warrant.

18 Q. Right. But when you disobeyed -- you disregarded what
19 Mr. Manarang said, then that was no longer even a possibility, was
20 it?

21 A. Sir, I didn't disregard what Mr. Manarang said. We had a
22 conversation during which I persuaded him that the only tactical
23 course was to arrest him based on what had occurred. Mr. Manarang
24 wasn't aware that we made contact with the hotel. It is a basic
25 of any type of investigation where you are hunting a fugitive or

1 any person that once you make contact with someone who is in
2 contact with your subject, that the odds of them being notified go
3 up exponentially.

4 Q. But you talked to Mr. Manarang before you went to the hotel,
5 didn't you?

6 A. Yes, sir.

7 Q. Right. And he told you in that conversation that he wanted
8 you to be cautious, that there were other ways to deal with this,
9 that, for example, he could send you a surveillance team from
10 Chicago --

11 A. No, sir, that conversation didn't occur until after we
12 notified the hotel clerk.

13 Q. So you didn't wait to hear back from Mr. Manarang before you
14 made the decision -- Special Agent Samit decided on his own to go
15 ahead and arrest this guy, without getting full instructions from
16 headquarters, right?

17 A. Sir, full instructions weren't required to arrest him.

18 Q. You blew an opportunity to search Moussaoui's room even
19 without a warrant, didn't you, Agent?

20 A. No, sir.

21 Q. You know from your training that if someone is a foreign
22 national and suspected of being a terrorist, that you don't even
23 need a warrant to go into his room?

24 A. Sir, that's, that's totally false. That's not true at all.

25 Q. You could -- doesn't FISA have an emergency provision in it,

1 Agent, didn't you learn in your training that you can get -- you
2 can actually enter a hotel room and do a search without a warrant?

3 A. If we get emergency FISA authority, yes, sir.

4 Q. You have -- they give the emergency FISA authority later,
5 right?

6 A. We get the emergency FISA authority in advance of being able
7 to go in and search the room, and then within 72 hours, we need to
8 have an order signed by a FISA court judge.

9 Q. And you didn't even try to do that, either, right?

10 A. No, sir.

11 Q. Right. You were just -- you just wanted to arrest this guy
12 and collar him, right?

13 A. No, sir.

14 Q. Okay. Didn't, didn't Manarang tell you he was going to send
15 surveillance teams to find Moussaoui?

16 A. Again, sir, he told us that long after we had already
17 notified the hotel clerk and presented the possibility of tipping
18 Mr. Moussaoui off. The surveillance would have been negated if at
19 breakfast the next morning the hotel clerk said to Mr. Moussaoui:
20 Hey, the FBI and Immigration was here asking about you, sir.

21 It wasn't a viable option. Once I explained that to
22 Supervisory Special Agent Manarang, he saw the logic in that and
23 agreed immediately.

24 Q. Okay. But you didn't have full discussions with him and tell
25 him everything before you finally went ahead. You said to the

1 jury last week that you and Agent Weess decided to arrest him,
2 right?

3 A. Yes, sir.

4 Q. And, in fact, what you told, you told Manarang was that it
5 was too late to implement his plan because you were going to
6 arrest him, right?

7 A. For the reasons I explained to you, yes, sir.

8 Q. And you serve on one of those surveillance squads, don't you?

9 A. No, sir.

10 Q. You don't -- you know that the FBI has special surveillance
11 squads, don't you?

12 A. Yes, sir.

13 Q. Including pilots, right?

14 A. Yes, sir.

15 Q. And there could have been ten -- how many agents just in
16 your, in the Minneapolis office could have been assigned to follow
17 Mr. Moussaoui around?

18 A. At that time, sir, we didn't have a surveillance squad. We
19 would have had to take members off of other squads. The numbers
20 would have been subject to their caseload and their supervisor
21 availability. I don't know how many we could have provided
22 ourselves.

23 Q. And how many agents did Mr. Manarang tell you he was going to
24 send to Chicago --

25 A. He didn't, sir.

1 Q. Did he tell you that he was going to send a group from
2 Chicago?

3 A. He said that he would make some calls and that there was a
4 possibility that Chicago could supply surveillance teams.

5 Q. And he told you he could send people from New York as well,
6 right?

7 A. He may have, sir.

8 Q. And --

9 A. I don't recall.

10 Q. But it was too late by then, right?

11 A. Yes, sir.

12 Q. Now, did you receive -- look at Exhibit 901, if you would,
13 please, Agent Samit.

14 Your Honor, those are in chronological order for you up
15 there, so it would be the first.

16 THE COURT: Thank you, because they are not in numerical
17 order. That's all right.

18 MR. MAC MAHON: They are in CIPA designation. It was
19 easiest for us to organize it this way.

20 THE COURT: That's fine. Are you going to be publishing
21 any of these?

22 MR. MAC MAHON: Yes, we will be.

23 THE COURT: All right.

24 THE WITNESS: Yes, sir, okay.

25 BY MR. MAC MAHON:

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1044

1 Q. Had you ever seen this exhibit before?

2 A. I had not.

3 Q. Did you learn in August of 2001 that the FBI had told the
4 President of the United States that there was suspicious
5 activities in the country consistent with preparations for
6 hijackings and other types of attacks?

7 A. No, sir.

8 Q. That information would have never filtered down to you,
9 right?

10 A. I can't say that it never would have. In this case it
11 didn't, sir.

12 Q. Okay. And you never received any information in August 2001
13 from headquarters that they had been concerned about hijackings in
14 the United States, right?

15 A. No, sir, I didn't.

16 Q. You weren't aware that there were preparations by Usama Bin
17 Laden to move his family? You never heard that either, did you?

18 A. No, sir.

19 Q. In fact, as an agent on the street, you don't ever get any of
20 these warnings about what the head of the FBI thinks is going on,
21 right?

22 A. That's not true, sir. This one I didn't see. We will
23 frequently see reporting on the FBI Internet, a web page, as to
24 what the director has told different members of the National
25 Command Authority. In this case I didn't see this one, though.

1 Q. But did you just say that you never received any information
2 in August of 2001 --

3 A. That's correct.

4 Q. -- or September of 2001 that the FBI and the United States
5 Government was concerned about al Qaeda trying to hijack planes in
6 the United States?

7 A. Yes, sir, that's correct. I did say that I did not see
8 anything like that.

9 Q. Look, if you would, at Exhibit 628.

10 A. Yes, sir.

11 Q. Have you seen that before?

12 A. I have.

13 Q. Okay. Could we put that up on the screen, please.

14 Now, before we go through this, in your direct you
15 didn't -- you didn't show the jury any of your work product in
16 this case, did you?

17 MR. NOVAK: I object. This has not been introduced in
18 evidence yet, and we're showing it on the screen?

19 THE COURT: I'm sorry, it shouldn't be on the screen.
20 Is there an objection to this exhibit?

21 MR. NOVAK: There has been no foundation at all as to
22 its admissibility at this point.

23 THE COURT: Well, the witness said he had seen it. I
24 thought I heard that testimony.

25 Agent Samit --

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1046

1 THE WITNESS: Your Honor, I have seen it.

2 THE COURT: When did you see it?

3 THE WITNESS: Actually, I filled this out. This is my
4 writing.

5 THE COURT: Then there is no basis for the objection.

6 MR. MAC MAHON: Move the admission of Exhibit 628, Your
7 Honor.

8 THE COURT: 628 is in.

9 (Defendant's Exhibit No. 628 was received in evidence.)

10 BY MR. MAC MAHON:

11 Q. Okay. Tell the jury what this is, Agent Samit.

12 A. This is a memorandum that comprises a case opening form.
13 When the FBI initiates an investigation, we would fill out a form
14 like this so that they could be entered, the subject could be
15 entered into the computer system.

16 Q. Okay. And 199 you classified as what?

17 If I can show the jury?

18 A. That's an international terrorism other case.

19 Q. Okay. So you knew as of August 15th that from even -- you
20 hadn't even talked to Mr. Moussaoui at this time, had you?

21 A. No, sir.

22 Q. And you knew it was an international terrorism case before
23 you even talked to him, right?

24 A. I didn't know that for sure. Because we were the
25 international terrorism squad, and because we had received

1 suspicious reporting, and because Mr. Moussaoui was not a United
2 States person, those three things allowed us to open an
3 international terrorism intelligence case.

4 I didn't know for sure that it would constitute
5 international terrorism. On a lot of occasions, we will receive
6 reporting that on the face of it looks very suspicious, but once
7 we conduct some investigation and we begin looking into it, it has
8 an innocent explanation, and we very quickly close the case.

9 Q. Now, did you -- when you talked to Mr. Manarang, did you tell
10 him that you would like not to open a case and just to investigate
11 Mr. Moussaoui?

12 A. No, sir. That would be a violation of attorney general
13 guidelines. The FBI is not allowed to investigate people without
14 a case open.

15 Q. Even -- even suspected terrorists, Agent?

16 A. Anyone, sir. We don't open -- we don't investigate people
17 without cases open.

18 Q. Okay. And there was no classified information or
19 FISA-generated information or anything about Mr. Moussaoui on
20 August 15, 2001, right?

21 A. I don't understand your question.

22 Q. This wasn't an intelligence investigation, you hadn't
23 received any intelligence on Mr. Moussaoui, was it?

24 A. An intelligence investigation doesn't exist because
25 intelligence is received, sir. An intelligence investigation is

1 opened and predicated for the purpose of collecting intelligence.

2 So it is not at all unusual for investigations to be opened absent
3 any intelligence but just some suspicious information.

4 It is called an intelligence case because the purpose is
5 to gather intelligence, not because intelligence previously
6 exists.

7 Q. Right. But once you opened it as a 199, you created yourself
8 problems with the wall, didn't you?

9 A. Yes, sir.

10 Q. And you knew that when you did it?

11 A. Yes, sir, but I had no options. I didn't have enough
12 criminal predication based on the information that I had received
13 from Pan Am. All I had was suspicious information.

14 Although, yes, I did create myself problems, I had no
15 alternative. The three options were a criminal case, which lacked
16 predication; to investigate Mr. Moussaoui without a case, which is
17 illegal; or to open an intelligence investigation.

18 Q. Or you could have done what Mr. Manarang told you to do,
19 right?

20 A. Sir, that -- those two aren't mutually opposed.

21 Q. Did Mr. Manarang tell you you had to open a criminal case to
22 have Mr. Moussaoui tailed around and see who he went and talked
23 to, see who he met with, and see what was in his room?

24 A. No, sir, that's, that's not correct. He did not tell me
25 that.

1 Q. If we can go down a little bit on this document. Over here,

2 No. A on the right, Pam, please.

3 On August 15th, sir, you circled "counterterrorism"?

4 A. Yes, sir.

5 Q. Now, this was from a result of conversations that you heard

6 from somebody, correct? You heard about Moussaoui from Clancy

7 Prevost, right?

8 A. Not at the time this was opened, no, sir. This was only on

9 the basis of Mr. Nelson's telephone call.

10 Q. All right. And we will get to that in your August 18th. You

11 got substantial information from him about why they were concerned

12 about somebody who couldn't fly a plane at all paying cash and

13 trying to get on a flight simulator, right?

14 A. Yes, sir.

15 Q. And that information led you to circle "counterterrorism,"

16 right?

17 A. No, sir. The fact that we were the Joint Terrorism Task

18 Force, what you see under the heading NFIP, National Foreign

19 Intelligence Program, that's just how the FBI classifies the types

20 of investigations they have.

21 In this case I circled "counterterrorism" because that's

22 the squad I was on, and that's the description that this most

23 closely fit at the time.

24 Q. But you knew that, you knew the minute you hung up the phone

25 with Mr. Nelson that you had a very substantial terrorism case on

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1050

1 your hands, didn't you?

2 A. No, sir, not at all. That's completely false. I did not
3 know.

4 Q. You didn't, you didn't know at that point in time that you
5 had -- that Mr. Moussaoui was the most dangerous man in the
6 history of the United States?

7 A. Absolutely not, sir.

8 Q. That came a couple days later?

9 A. Yes, sir. And even still, not the most dangerous man in the
10 United States. A person of significance certainly, but the most
11 dangerous man in the United States, no, sir.

12 Q. Well, your exact words were "gravest threat ever to national
13 security," weren't they?

14 A. Where were those, sir?

15 Q. You didn't use those words?

16 A. I can't recall ever using those words, no, sir.

17 Q. All right. Let's go to Exhibit 949 if we could, please.

18 A. Yes, sir.

19 Q. Have you seen that before?

20 A. It looks like Special Agent Weess's writing. I have
21 certainly seen that information before. As to this exact
22 document, I don't think so.

23 Q. It is from your file, isn't it, from your investigative file
24 in Minneapolis?

25 A. It may very well be, yes, sir.

1 Q. Okay. And that's your -- one of the immigration agents in
2 the case, right?

3 A. Yes, sir.

4 Q. Okay. I'd move the admission of 949, Your Honor.

5 MR. NOVAK: No objection.

6 THE COURT: All right. It is in.

7 (Defendant's Exhibit No. 949 was received in evidence.)

8 BY MR. MAC MAHON:

9 Q. Okay. What is -- if we can put that up on the screen,
10 Ms. Bishop, the first page, please?

11 Tell the jury what that is, Agent Samit.

12 A. It is a document that says "French Passport." It has
13 Mr. Moussaoui's date of birth and his name, as well as the date
14 and place he entered the United States.

15 Q. All right. And that's the correct spelling of his name and
16 the correct birthdate, and you had it on the 15th of August,
17 right?

18 A. Yes, sir.

19 Q. Can we show the next page, please?

20 Can you tell the jury what this is, Agent Samit?

21 A. This is an Immigration and Naturalization Service entry
22 record. It shows when a person enters the United States and the
23 circumstances under which they do so.

24 Q. Okay. And did you see this in August of 2001?

25 A. Probably not. The information was relayed to me by Special

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1052

1 Agent Weess. Again, it looks like his writing.

2 Q. But --

3 A. I wouldn't have, I wouldn't have necessarily seen this
4 document. I wouldn't need to. The information that it contained
5 was relayed to me.

6 Q. Okay. And if we could, you learned that he had been, was a
7 student at Airman Flight School, right?

8 A. Yes, sir.

9 Q. You learned that day that he had been learning to fly since
10 2001, right? On or about that day, you learned this information?
11 This is before you even arrested him, right?

12 A. No, I would not have learned all that. In fact, some of
13 these notes may have been made after the date of this printout.
14 This looks like Special Agent Joe Rivers, another agent on the
15 squad's, writing down here at the bottom. This information may
16 have been obtained -- the written information, the text down here
17 that you circled, sir, may have been placed on this document after
18 the 15th.

19 Q. Okay. But let's go all the way to the bottom, if we could,
20 Ms. Bishop.

21 Why don't you show that to the jury, if you could.

22 A. It says "Lead on Bin Laden, personal pilot."

23 Q. So as of August 15th, someone in your investigative crew knew
24 that one of Bin Laden's, Usama Bin Laden's pilots had trained at
25 the Airman Flight School, right?

1 A. Sir, I don't know when this -- as I told you, I don't know
2 when these, this writing was done on this document. Understanding
3 that the documents are printed out, provided to us by Immigration,
4 and kept as a record over the long term, this writing could have
5 been added anytime subsequent to August 15th.

6 Q. Whose handwriting is that?

7 A. Special Agent -- I believe it is Special Agent Joe Rivers on
8 our squad.

9 Q. Okay. Did you know on August 15th that Usama Bin Laden
10 was -- had trained a personal pilot at Airman Flight School?

11 A. No, sir.

12 Q. Nobody told you that?

13 A. No, sir.

14 Q. Is this the first time you learned that?

15 A. No, it is not. This is the first time I have seen this
16 document. It is not the first time that I learned that fact.
17 Subsequent to 9/11 I learned that a personal pilot of Bin Laden
18 had trained at Airman Flight School.

19 Q. So whoever put this on here before 9/11 didn't tell you,
20 Agent, right?

21 A. Again, sir, I don't know that this was put here before 9/11.
22 In fact, it is important to understand that Special Agent Joe
23 Rivers' role in this case, if this is his handwriting, came after
24 September 11th. In fact, when a criminal case was opened after
25 September 11, that's when Special Agent Rivers was brought into

1 this investigation.

2 He was responsible for preparing an unclassified summary
3 of the investigative facts, and so it is very likely that this was
4 added after September 11th.

5 Q. Agent Samit, you have no idea when Joe Rivers wrote this on
6 this piece of paper, do you?

7 A. No, sir.

8 Q. The visa number was something he would have written on August
9 15th on a piece of paper, right?

10 A. Sir, I don't know.

11 Q. So you have no idea?

12 A. I don't, but I do know when Special Agent Rivers was involved
13 in the investigation, and it was after September 11th.

14 Q. Nobody told you before 9/11 that there were al Qaeda members
15 training as pilots in the United States?

16 A. No, sir.

17 Q. Nobody sent you the Phoenix memorandum?

18 A. No, sir.

19 Q. Didn't search for it?

20 A. No, sir.

21 Q. Look at Exhibit 326, if you would, please.

22 THE COURT: Any objection to 326?

23 MR. NOVAK: Judge, may I get a copy? I will say this,
24 the last objection, the copy that was given to us by defense
25 counsel was not what was put on the screen. That's why it is

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1055

1 taking us a couple minutes to figure it out.

2 THE COURT: All right. Well, take a quick look at 326.

3 It appears to be an e-mail from Agent Samit -- to Agent Samit.

4 MR. NOVAK: We have no objection.

5 THE COURT: All right. It is in.

6 (Defendant's Exhibit No. 326 was received in evidence.)

7 BY MR. MAC MAHON:

8 Q. Have you seen this before, Agent Samit?

9 A. Yes, sir.

10 Q. Tell the jury what this is.

11 A. This is an e-mail that I sent to our office in Paris, to the
12 assistant legal attache in Paris.

13 Q. Okay. And is this before you arrested Moussaoui, right?

14 A. Yes, sir.

15 Q. And if we could blow up at the bottom of the paragraph,
16 please?

17 Could you read that, the two sentences, the sentence
18 starting with "He paid" to the jury, please, Agent Samit?

19 A. "He paid between 6,000 and 8,000 dollars to essentially learn
20 how to take off and land the 747-400. His excuse is weak, he just
21 wants to learn how to do it. That's pretty ominous and obviously
22 suggests some sort of hijacking plan."

23 Q. All right. That's before you even talked to him, right?

24 A. Yes, sir.

25 Q. Did you -- do you remember when your conversations were with

1 Mr. Manarang?

2 A. I don't remember exactly, but on the 15th and then again on
3 the 16th.

4 Q. And in no piece of paper that you prepared in the course of
5 your investigation did you ever reference any of your
6 conversations with Agent Manarang, did you?

7 A. No, sir.

8 Q. Okay. And his role at the FBI was what?

9 A. He was assigned to the Iran Unit.

10 Q. How much experience did he have as a terrorist investigator
11 at that time?

12 A. I don't know, sir.

13 Q. Never asked him?

14 A. No, sir.

15 Q. A lot more than you did, right?

16 A. I don't know, sir.

17 Q. He was in the -- what section was he in?

18 A. The Iran Unit.

19 Q. Of what?

20 A. FBI headquarters.

21 Q. International Terrorism Operation Section?

22 A. Yes, sir.

23 Q. You don't have any idea what his experience level was, right?

24 A. No, sir.

25 Q. He was in charge of that section, wasn't he?

1 A. No, sir, I believe he was a desk supervisor in that section.

2 The person in charge of that section would have been the

3 International Terrorism Operation Section person.

4 Q. Did you ever call him to see whether it was wise to arrest

5 Moussaoui or not?

6 A. No, sir.

7 Q. Look at Exhibit 49, if you would, please.

8 THE COURT: Any objection to 49?

9 MR. NOVAK: No.

10 THE COURT: All right, it is in.

11 (Defendant's Exhibit No. 49 was received in evidence.)

12 BY MR. MAC MAHON:

13 Q. What is Exhibit 49, Agent?

14 A. Sir, it is an electronic communication from our squad to the

15 State Department special agent assigned to the Chicago Joint

16 Terrorism Task Force.

17 Q. Okay. The precedence line here at the top, "immediate," what

18 does that mean?

19 A. It means that the people who are receiving this are requested

20 to cover the lead, that is, to comply with the request in the

21 communication as quickly as possible.

22 Q. And that's because after you, after you interviewed

23 Moussaoui, Mr. Moussaoui, you knew for a fact that you had a

24 terrorist on your hand who was getting flight training, isn't that

25 right, Agent Samit?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1058

1 A. Yes, sir.

2 Q. Right. And that's why you set about to get everybody in the
3 government to react immediately to your requests, correct?

4 A. Yes, sir.

5 Q. And Mr. Rivers actually read this, too, didn't he?

6 A. Yes, sir. Mr. Rivers was requested to send this lead because
7 he knew Special Agent Childs, the Department of State agent. I
8 provided the information to Mr. Rivers, essentially the text to
9 Mr. Rivers. He dropped it into an EC and sent it to Special Agent
10 Childs with the request.

11 Q. Mr. Rivers was involved in your investigation of
12 Mr. Moussaoui before September 11th, wasn't he, Agent?

13 A. No, sir, just to the point where he sent one communication
14 for us. Doing administrative paperwork to facilitate leads does
15 not constitute investigation. He was not involved in the
16 investigation.

17 Q. And you weren't consulting with him at all about it?

18 A. I'm sorry, what was the question?

19 Q. Did you ever consult with him between the time of August 15th
20 and 9/11 about the investigation?

21 A. No, sir. I sent him, I sent him an e-mail. He was copied on
22 the e-mail traffic. We discussed the significance. We discussed
23 ways to run leads, but in terms of consultation, it was Special
24 Agent Weess and myself before 9/11.

25 Q. It was your case, right, Agent Samit?

1 A. Yes, sir, although Special Agent Weess, it should be noted,
2 was the officially designated co-case agent.

3 Q. So when we find e-mails and a lot of communications involving
4 Mr. Rivers, then that's just all administrative stuff, right?

5 A. Yes, sir, that's correct.

6 MR. MAC MAHON: Go to the third page, if you would,
7 please, Ms. Bishop, where it says "background." Just back it off
8 a little bit, please.

9 BY MR. MAC MAHON:

10 Q. Do you see where it says there that al-Attas was interviewed
11 and claimed that Moussaoui regularly speaks of jihad?

12 A. Yes, sir.

13 Q. Okay. And "jihad" is a term that is frequently invoked by
14 Muslim fundamentalists and al Qaeda members; isn't that right?

15 A. Yes, sir.

16 Q. And you knew that then?

17 A. Yes, sir. But it is also a term that's frequently invoked by
18 radical Muslims who are not members of al Qaeda, who are members
19 of any Islamic fundamentalist-based group. There's dozens of them
20 out there, sir, and so jihad does not equal al Qaeda.

21 Q. Agent Samit, when you interviewed al-Attas, you said:
22 "Doesn't jihad mean holy war," didn't you?

23 A. Yes, sir, but other groups other than al Qaeda have embarked
24 on holy wars, sir.

25 Q. But when you say that al-Attas says that Moussaoui talks

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1060

1 about jihad, you were talking about holy war, not anything else,
2 right?

3 A. And the same holy war that I was talking about is embarked on
4 by other groups as well, sir.

5 Q. But you don't put "holy war" in any of your warnings to
6 everybody in Washington, right?

7 A. No, sir.

8 MR. MAC MAHON: Show him Exhibit 32 -- and move the
9 admission of --

10 THE COURT: 49 is in.

11 MR. MAC MAHON: Thank you, Your Honor.
12 32, please?

13 THE COURT: Is there any objection to 32?

14 MR. NOVAK: No objection.

15 THE COURT: All right. It is in.

16 (Defendant's Exhibit No. 32 was received in evidence.)

17 BY MR. MAC MAHON:

18 Q. Have you seen Exhibit 32 before, Agent?

19 A. Yes, sir.

20 Q. What is that?

21 A. This is a sworn statement that Special Agent Weess and myself
22 took of Mr. al-Attas on August 17th. In fact, that's my writing.

23 Q. This is your handwriting?

24 A. It is, yes, sir.

25 MR. MAC MAHON: Can you pull that back a little bit,

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1061

1 please.

2 BY MR. MAC MAHON:

3 Q. Now, this is the only written statement you have ever got
4 from al-Attas at all, right?

5 A. Yes, sir.

6 Q. Okay. Did you ever get a written statement from Moussaoui?

7 A. No, sir.

8 Q. Did you ever ask him for one?

9 A. No, sir.

10 Q. And you didn't tape your interview with him, right?

11 A. No, sir.

12 Q. No video of it?

13 A. Correct.

14 Q. Is there some reason why you didn't ask Moussaoui for a
15 written statement?

16 A. Yes, sir.

17 Q. Didn't think he would sign one?

18 A. He was providing us plenty of verbal statements. It was
19 difficult to pin Mr. Moussaoui down. We didn't think that there
20 would be any substance to a written statement from him.

21 Q. Is that something you talked about with one of the agents
22 while you were there?

23 A. No, sir.

24 Q. So on the first day, August 17th, this man, Hussein al-Attas,
25 under oath tells you that Moussaoui uses a false name, right,

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1062

1 Shaqil?

2 A. Yes, sir.

3 Q. Was that his war name? Did you ask him that?

4 A. I did not, no, sir.

5 Q. But you knew that Moussaoui was using a false name?

6 A. Yes, sir.

7 Q. But it wasn't a war name like Mr. Novak asked you; it was
8 just a false name, right?

9 A. I later learned it was one of his war names, but at that time
10 I only knew it was a false name, a name not assigned to him, not
11 his own.

12 Q. All right. And Mr. al-Attas told you and signed under oath
13 that if Shaqil were to see a non-believer harming a Muslim in any
14 way, he would harm the non-believer secretly. He has referred to
15 non-believers as Jews and Christians.

16 That's something you learned in the first day, right?

17 A. Yes, sir, from Mr. al-Attas.

18 Q. And that's pure Islamic fundamentalism, radical al Qaeda
19 rhetoric, isn't it?

20 A. I'd stop you, sir, I would say it is pure Islamic
21 fundamentalism, yes, sir. Al Qaeda, al Qaeda, they subscribe to
22 that, but there are many other terrorist groups which also do,
23 sir.

24 Q. Let's just say it was pure -- it was very obvious to you
25 after hearing that rhetoric attributed to Shaqil that he was a

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1063

1 terrorist, right?

2 A. That he was an Islamic fundamentalist.

3 Q. And --

4 A. The difference, sir, I should add, the difference between an

5 Islamic fundamentalist and a terrorist is that an Islamic

6 fundamentalist has a certain series of beliefs consistent with a

7 very radical form of Islam. A terrorist is someone who subscribes

8 to those beliefs but will take steps to act upon that or to

9 support people who are involved in that.

10 Q. Right. And you --

11 A. And there is a big distinction between those two.

12 Q. Thank you, Agent. But you knew that day, you thought, had

13 reason to believe that that man was a terrorist, right?

14 A. Yes, sir.

15 Q. And you probably wrote at least 70 pieces of paper or

16 references to him as a terrorist before 9/11, right?

17 A. 70 individual pieces of paper?

18 Q. 70 references to Moussaoui as a terrorist you sent to your

19 superiors in government before 9/11, somewhere around there,

20 right?

21 A. Probably, yes, sir.

22 Q. And a Muslim fundamentalist, right?

23 A. Yes, sir. Radical fundamentalist would be more accurate.

24 Q. And they ignored every one of them, didn't they?

25 A. No, sir, that's not true.

1 Q. They didn't even ask for a search warrant, right?

2 A. That's correct.

3 Q. And you learned that same day, on August 17th, that
4 Moussaoui -- and can we put that up again, please, Ms. Bishop?
5 Focus on the paragraph 2.

6 That Shaqil had stated that a true Muslim should know
7 about the pain of Muslims in various countries. I can recall that
8 he discussed Palestine, Kashmir, Macedonia, Kosovo, Philippines,
9 and Chechnya, right?

10 A. Yes, sir.

11 Q. And that's more, that's more Bin Laden rhetoric, Muslim
12 fundamentalism as well, right?

13 A. Again, it is a mischaracterization to say it is Bin Laden
14 rhetoric. He is one of the people who subscribes to that, but
15 many other radical fundamentalists do as well.

16 And I should also add, sir, it is important to
17 distinguish between my investigative hunches, my suspicions, and
18 what I can prove legally. Had Mr. Moussaoui told us these facts
19 on that date, it would have been a radically different story.

20 Q. Well, that's what you think, right?

21 A. Yes, sir, that is what I think.

22 Q. If you'd done what Manarang told you, it might have been a
23 different story, too, right?

24 A. No, sir. If I had done what I was able to persuade
25 Mr. Manarang not to do, Mr. Moussaoui might have been tipped off

1 and radically altered his plans.

2 Q. Agent, we will never know, will we?

3 A. No, sir.

4 Q. But this confirmed your suspicion that Moussaoui was a
5 terrorist, that he was running around talking about these same
6 kind of issues, right?

7 A. It strengthened my suspicion. The only thing that would have
8 confirmed my suspicion, sir, is if Mr. Moussaoui had admitted that
9 himself when asked.

10 Q. Agent, are you going to tell this jury that the only way you
11 can get a search warrant is if somebody, if you were to ask him:
12 Are you a terrorist, if they said yes or no?

13 A. No, sir.

14 Q. All right. And that's not how the FBI acts to defend this
15 country, either, is it?

16 A. I'm sorry?

17 Q. You don't wait for terrorists to say: You know what? I am a
18 terrorist?

19 A. No, sir.

20 Q. Right. And your investigation here was to uncover the facts
21 that Moussaoui was, in fact, a terrorist, right?

22 A. That's correct.

23 Q. All right. And you uncovered those facts, didn't you?

24 A. I uncovered enough facts to generate suspicion in my mind
25 that he was a terrorist, but that's a far distance from being able

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1066

1 to prove it, sir.

2 Q. Okay. You knew before August 30th that Moussaoui had been to
3 Afghanistan to training camps, didn't you?

4 A. No, sir.

5 Q. Nobody ever told you that?

6 A. No, sir.

7 Q. That he'd been to Afghanistan, right?

8 A. Correct. Yes, sir. No one had told me that. I didn't learn
9 of that until after September 11.

10 Q. Right. But the FBI knew before -- on August 30th that
11 Moussaoui was a Bin Ladenite who had been to Afghanistan, and they
12 didn't do a thing with the information, did they?

13 A. Sir, I have never seen that the FBI knew that before August
14 30th. That's totally false.

15 Q. Okay. We will get to that document then, Agent. We will get
16 there soon.

17 Now, on the next page, it says that Shaqil has refused
18 to reveal his sheikh for me.

19 A. His sheikh. "Shaqil has refused to reveal his sheikh to me
20 for fear that I would not like him (his sheikh) because of his
21 sheikh's beliefs or country of origin."

22 Q. And did you ask, did you ask Mr. al-Attas who Moussaoui's
23 sheikh was?

24 A. I did.

25 Q. And what prompted you to ask that question?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1067

1 A. Because often it is important when dealing with a member of a
2 terrorist group to understand what religious leader they follow so
3 we can identify the group. The purpose of that question was
4 precisely because we had not identified the group, and
5 Mr. al-Attas's inability to answer that question denied us the
6 ability to identify the group.

7 Q. You also asked him about Moussaoui pointing out Usama Bin
8 Laden to him on a television, didn't you?

9 A. Yes, sir.

10 Q. So you needed him to confirm -- if Moussaoui is pointing
11 people out to Usama Bin Laden -- pointing Usama Bin Laden out to
12 people, there is nothing you as an agent can do with that
13 information if it is not confirmed; is that what you're telling
14 this jury?

15 A. It is not there is nothing I can do as an agent, but
16 reasonable minds will differ as to the strength of our argument.
17 And, again, it is fairly certain that what I had was a reasonable
18 suspicion rather than the proof that your client could have
19 provided me, sir.

20 Q. You never even asked a judge for a warrant, did you?

21 A. I didn't? No, sir, that's correct, I did not.

22 Q. Look at Exhibit 948, if you would, please.

23 THE COURT: Is there any objection to this exhibit?

24 MR. NOVAK: Yes, Judge. This is not his document that
25 he referred to.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1068

1 MR. MAC MAHON: I will ask him if he has seen it, Your
2 Honor.

3 THE COURT: All right.

4 BY MR. MAC MAHON:

5 Q. Have you ever seen this document before?

6 A. No, sir.

7 Q. Okay. Isn't it a fact that -- don't put it up on the screen,
8 Ms. Bishop.

9 Isn't it a fact that on that same day that you
10 interviewed Hussein al-Attas, he also told you that Moussaoui used
11 the computer to access various websites related to the Islamic
12 jihad and other terror organizations?

13 A. No, sir. What Mr. al-Attas told us was he had looked at
14 fatwahs online.

15 I'm just trying to catch up to you, sir. Does it say
16 that in this document?

17 Q. Look at the second page and see if it refreshes your
18 recollection, of what Hussein al-Attas told you on August 16th,
19 2001.

20 A. Yes, sir. That's obviously a mistake by the person who wrote
21 this. They were just amplifying, it looks like Bill Koch was
22 amplifying information he had received. That's actually not what
23 we relayed to them.

24 Q. Okay. And he didn't -- al-Attas didn't tell you that
25 Moussaoui corresponded by e-mail with people connected to

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1069

1 terrorist organizations, either?

2 A. No, sir. It says -- in fact, this document doesn't say that.

3 It says various websites related to the Islamic jihad and other
4 terrorist organizations.

5 What Mr. al-Attas, in fact, told us was that

6 Mr. Moussaoui used the Internet to look at fatwahs online.

7 Q. Why don't you finish -- since you want to read this to the
8 jury, why don't you finish the sentence then, Agent Samit?

9 MR. NOVAK: Judge, I object. He is trying to go the
10 back door way that he's not allowed to.

11 MR. MAC MAHON: I was asking if it refreshed it. Now
12 he's read it to the jury. We might as well finish the sentence,
13 Your Honor.

14 THE COURT: Well, I think the witness volunteered to
15 read a portion of the document. I think to give the jury context,
16 he should read the surrounding language, and that's all. He can
17 certainly cross-examine him about that. Overruled.

18 BY MR. MAC MAHON:

19 Q. Go ahead. Finish reading the paragraph to the jury.

20 A. "Furthermore, the Yemeni national stated that the suspect
21 also corresponded via e-mail with various individuals, believed
22 connected with terrorist organizations."

23 Q. Okay. And Bill Koch, is that how you pronounce his name?

24 A. Yes, sir, that's correct.

25 Q. And that's someone who works in the U.S. Attorney's Office in

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1070

1 Minneapolis, right?

2 A. It is.

3 Q. Okay. Did you have any conversations with him after you
4 interrogated Moussaoui and Al-Attas about obtaining a search
5 warrant?

6 A. No, sir.

7 Q. Okay. Mr. Jones did, though, right?

8 A. Mr. Jones did. I believe Mr. Jones did on the afternoon of
9 the 16th as the interviews were ongoing.

10 Q. Okay. And Peg Magill is another person, another lawyer in
11 the U.S. Attorney's Office who was consulted about getting a
12 search warrant, correct?

13 A. She was not consulted to get a search warrant. We did not
14 actually go to any attorneys in the U.S. Attorney's Office to get
15 a search warrant.

16 Q. You asked them whether they could, you could get a search
17 warrant, correct?

18 A. Supervisory Special Agent Jones gave them a heads-up of what
19 we had. We were not able to formally request a search warrant of
20 the United States Attorney's Office.

21 Q. And you were told that they would prepare the search warrant
22 affidavit for you and present it to a judge, and then you never
23 called them back; isn't that right?

24 A. No, sir.

25 Q. You never called them back at all, did you?

1 A. No, sir. We were not permitted to.

2 Q. By -- the people in Washington didn't let you do it, right?

3 A. Yes, sir, that's correct.

4 THE COURT: I'm sorry, let me make sure I understand
5 this. In other words, you and the field agents in Minneapolis
6 were prepared to ask the United States Attorney's Office to get a
7 criminal search warrant; is that right?

8 THE WITNESS: Your Honor, it is correct.

9 THE COURT: Okay. And field agents cannot on their own
10 go to the U.S. Attorney's Office when they believe there is
11 criminal activity afoot and get a search warrant without
12 permission from headquarters to do so?

13 THE WITNESS: Your Honor, under the rules prevailing in
14 August 2001, with the wall in place between intelligence and
15 criminal investigations, that's correct. We were not able to do
16 that.

17 THE COURT: What if you had opened that case initially
18 as a criminal case?

19 THE WITNESS: Then I would not have needed authority to
20 do that.

21 THE COURT: So by having checked the intelligence box,
22 the wall went into effect?

23 THE WITNESS: That's correct, Your Honor. But, again,
24 predication of a crime didn't exist at the time we began
25 investigating Mr. Moussaoui. It was only after the interviews had

1 occurred that we were able to determine that there was evidence of
2 a criminal conspiracy, so by then we were already down the road of
3 the intelligence investigation, and we needed headquarters'
4 authority either to go to the United States Attorney's Office for
5 that search warrant, for criminal techniques at that point.

6 THE COURT: Isn't the -- wasn't the main reason for the
7 wall, as you understood it, between intelligence and criminal
8 matters the fact that in an intelligence matter, some techniques
9 were permitted to be used by agents that would not fly in a
10 civilian court?

11 THE WITNESS: Yes, Your Honor. That would not fly in a
12 non-FISA court context, yes.

13 THE COURT: Right. Had any of those unusual techniques
14 been used up to that point in that case?

15 THE WITNESS: They had not, Your Honor, but it was, it
16 was the concern about the appearance of abuse that we were trying
17 to get around, that we'd somehow used any criminal information or
18 any criminal techniques supported by information gathered under
19 intelligence auspices. That was the concern.

20 The attorney general guidelines and the FBI manuals
21 clearly stated that Department of Justice had to provide authority
22 to contact the United States Attorney's Office, that we could
23 not -- once the criminal investigation -- or once the intelligence
24 investigation had been opened and once that investigation had
25 proceeded, in order to contact the U.S. Attorney's Office to use a

1 criminal technique, we needed to get their authority.

2 THE COURT: Even though every technique you had used up
3 to that point are standard techniques you would use in a criminal
4 case? I mean, you had gotten the tip from someone in the
5 community, right?

6 THE WITNESS: Yes, Your Honor.

7 THE COURT: You hadn't used a FISA warrant or some sort
8 of intelligence asset to get this information, just a walk-in off
9 the street?

10 THE WITNESS: Correct.

11 THE COURT: And then you interviewed the walk-in the way
12 you would in any kind of a criminal investigation, and then you
13 followed up on leads as a result of that?

14 THE WITNESS: Yes, Your Honor. Those were the rules
15 that prevailed pre-9/11, and they still exist for foreign
16 counterintelligence investigations today.

17 THE COURT: All right. Go ahead.

18 BY MR. MAC MAHON:

19 Q. And you knew all of that when you opened this up as an
20 intelligence investigation, didn't you, Agent Samit?

21 A. Yes, sir.

22 Q. And to follow up on what the Judge said, you didn't have a
23 warrant, wiretap, you hadn't done a FISA mail cover or anything?

24 A. The merest existence of the intelligence investigation was
25 sufficient to trigger the wall.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1074

1 Q. Look at Exhibit 631, if you could, please. Have you seen
2 that before, Agent?

3 A. Yes, sir. Those are my notes.

4 THE COURT: Any objection?

5 MR. NOVAK: No objection.

6 THE COURT: All right. Do you want to move that one in?

7 MR. MAC MAHON: Yes, please, Your Honor.

8 THE COURT: All right. 631 is in.

9 (Defendant's Exhibit No. 631 was received in evidence.)

10 BY MR. MAC MAHON:

11 Q. Exhibit 631 is a one-page document, right?

12 A. Yes, sir.

13 Q. Okay. These are all -- pull that back, please, Ms. Bishop.

14 These are all the notes that you took when you
15 interrogated Mr. Moussaoui in Minneapolis, aren't they?

16 A. During the August 17th interview, those are my notes, yes,
17 sir.

18 Q. So all the testimony you gave about all the questions and the
19 answers and what happened, your only written record now, almost
20 four-and-a-half years ago, is contained on Exhibit 631?

21 A. My only written record, yes, sir. Special Agent Weess was
22 also taking notes that day.

23 Q. Have you seen his notes?

24 A. I saw them at the time, at the time we were doing the
25 write-up, yes, sir.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1075

1 Q. Have you seen them since?

2 A. I have not.

3 Q. And if we look at Exhibit -- just let's stay with that. So
4 this is everything, huh, Agent?

5 A. These are all the notes that I took, yes, sir. You should
6 understand that that day on the 17th, I was the primary
7 interviewer, so I was doing most of the talking and very little of
8 the writing.

9 Q. August 16th you took no notes, right?

10 A. I took notes as well on that date, yes, sir.

11 Q. What did you do with those notes?

12 A. They were placed in the file as well.

13 Q. Where are they?

14 A. I don't know, sir. The case file.

15 Q. Did you look for them?

16 A. I utilized them when I wrote the report and then placed them
17 in the case file.

18 Q. Did you look for them to give to the defense lawyers in this
19 case in the last four years?

20 A. No, sir.

21 Q. Anybody ask you to?

22 A. No, sir.

23 Q. It says -- you testified that Mr. Moussaoui sent you on, I
24 believe, a bunch of wild goose chases. Was that your testimony?

25 A. Yes, sir.

1 Q. Okay. Did you send somebody to Germany to find Habib?

2 A. No, sir.

3 Q. Did you send anybody to Pakistan to find Ahmed Atif?

4 A. No, sir.

5 Q. Did you send anybody to Holland to find this Dutch company?

6 A. No, sir.

7 Q. Did you send anybody to France to find this senator that had
8 bailed him out of court?

9 A. No, sir.

10 Q. What you did was you sent information -- you sent requests
11 out to France that had his correct name, date of birth, and you
12 asked for information, correct?

13 A. Yes, sir, and to the United Kingdom as well. And that's
14 actually precisely the point of my wild goose chase argument.
15 Although he had been to --

16 MR. MAC MAHON: Your Honor, there is no question
17 pending.

18 THE COURT: Yes.

19 MR. NOVAK: Give him a chance to answer the question.

20 THE COURT: No, no, no. Frankly, I was surprised that
21 we didn't pull an objection sooner.

22 Just answer the specific question, Agent.

23 THE WITNESS: Yes, Your Honor.

24 MR. MAC MAHON: Thank you, Your Honor.

25 BY MR. MAC MAHON:

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1077

1 Q. Look at, look at 629 if you would, please.

2 THE COURT: Any objection?

3 MR. NOVAK: One moment, Your Honor.

4 No objection.

5 THE COURT: All right. It is in.

6 (Defendant's Exhibit No. 629 was received in evidence.)

7 BY MR. MAC MAHON:

8 Q. Have you seen this before?

9 A. Yes, sir.

10 Q. What is this?

11 A. This is an e-mail I sent to different members of my squad as
12 well as an agent in Oklahoma City and an agent in our office in
13 Paris, just bringing them up to date on what the investigation had
14 revealed.

15 Q. Okay. And this is -- these two addresses, this information
16 from the French passport that you got from Moussaoui, that was
17 entirely correct, wasn't it?

18 A. Yes, sir.

19 Q. And that, within a matter of a couple days, led you to some
20 very important information, didn't it?

21 A. Yes, sir, from the -- you are referring to the information
22 from the French?

23 Q. Yes, sir.

24 A. Yes.

25 Q. And this U.K. driver's license that he gave you and the

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1078

1 address was absolutely correct, too, wasn't it?

2 A. No, sir.

3 Q. He didn't have an address of Lambert Road, London, England?

4 A. He had an address of Lambert Road, but we subsequently

5 learned he never resided there.

6 Q. But that was an address that he used when he was in London,

7 correct?

8 A. It was an address that was on his driver's license. The

9 results I have seen have showed that he never used that address,

10 the investigative results from the U.K.

11 Q. And look on the bottom here. It says Moussaoui told you that

12 his original passport had gone through the washing machine, right?

13 Do you see that?

14 A. Yes, sir.

15 Q. You didn't believe it when he said it, did you?

16 A. I, I -- I didn't have any reason not to believe it.

17 Q. Agent, your training, you know that terrorists and Muslim

18 fundamentalists are always altering documents, getting new

19 documents to hide their travel, right?

20 A. Yes, sir.

21 Q. And one way they do that is to claim they went through the

22 washing machine, right?

23 A. Yes, sir. And actually, sir, if I can answer your question,

24 one way to do that is actually to put it through the washing

25 machine.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1079

1 Q. I understand. But you knew that before you met Moussaoui?

2 A. Yes, sir.

3 Q. Go to the next page, if you would, please.

4 Sorry, Judge, I keep forgetting to un-yellow.

5 Read that to the jury, if you would.

6 A. "Interviews of the above individuals indicate radical Islamic
7 fundamentalist beliefs held at least by Moussaoui."

8 Q. Okay. And this is on August 17th, right?

9 A. Yes, sir.

10 Q. Okay. Who were all the recipients on this e-mail?

11 A. Members of my squad as well as an agent in Oklahoma City and
12 an agent at our office in Paris.

13 Q. Okay. And the people in Paris especially got back to you,
14 right?

15 A. Yes, sir, they did.

16 Q. But you didn't get anything back from England until after
17 9/11, did you?

18 A. That's correct.

19 Q. All right. Let's look at Exhibit 472, if we could, please.

20 THE COURT: Is there any objection to this?

21 MR. NOVAK: No objection, Judge.

22 THE COURT: All right. It is in.

23 (Defendant's Exhibit No. 472 was received in evidence.)

24 THE WITNESS: Yes, sir.

25 BY MR. MAC MAHON:

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1080

1 Q. Okay. What is this exhibit?

2 A. This is my opening communication, my opening electronic
3 communication in the Moussaoui investigation.

4 Q. Okay. And the precedence on this is what?

5 A. Immediate, sir.

6 Q. And why was that?

7 A. Because I felt based on the two days of interviews that had
8 been done, that we had some fairly urgent time-sensitive
9 investigation that needed to be done.

10 Q. Right. You thought you had a terrorist who was planning a
11 terrorist attack, right?

12 A. Yes, sir.

13 Q. And you wanted everybody in the whole government to know what
14 you had found, right?

15 A. Yes, sir, that's correct.

16 Q. That was the intent of this document, was to put everything
17 there to tell them what you had learned and what your conclusions
18 were, correct?

19 A. Yes, sir.

20 Q. Okay. And when it says "To: Counterterrorism," what is
21 that? Do you see this here?

22 A. Yes, sir. Counterterrorism is a division within FBI
23 headquarters that is responsible for overseeing the field's
24 counterterrorism investigations.

25 Q. And how many people is that?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1081

1 A. I don't know, sir.

2 Q. More than ten?

3 A. Yes, sir.

4 Q. More than 50?

5 A. Yes, sir.

6 Q. Okay. And when you send an EC to Counterterrorism -- and EC
7 is electronic communication?

8 A. Correct.

9 Q. When you send that to Counterterrorism marked "immediate,"
10 that means you expect everybody to read it, right?

11 A. Yes, sir.

12 Q. And on the right here is ITOS. What is ITOS?

13 A. International Terrorism Operation Section.

14 Q. How many people are in ITOS?

15 A. I don't know, sir.

16 Q. More than 50?

17 A. Probably 50 or less.

18 Q. Okay. And my questions, of course, mean on or about August
19 18th, 2001.

20 A. Yes, sir. It is much bigger now, obviously.

21 Q. Right. Much bigger now, obviously, right?

22 A. Yes, sir.

23 Q. Is that what you said?

24 A. Yes, sir.

25 Q. Thank you.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1082

1 Okay. Joe Manarang, who is that?

2 A. He is a supervisor in the Iran Unit, sir.

3 Q. And so the people in the Iran Unit all work for Mr. Manarang?

4 A. No, sir. No. He is not the head of the Iran Unit. He is
5 one of the supervisors in the Iran Unit.

6 Q. Well, I am not an FBI agent. Tell me what that means.

7 A. There will be an Iran -- there will be different units
8 organized by terrorist group or by terrorist organization. In
9 this case, because we initially thought Mr. Moussaoui was
10 connected to a group associated with Iran, at least before we
11 spoke with him and during the initial stages, it went to the Iran
12 Unit.

13 Within the Iran Unit there is a number of supervisors,
14 like Mr. Manarang, who are assigned different areas of
15 responsibility in the United States. His area of responsibility
16 included Minneapolis.

17 The head of the Iran Unit would be the unit chief of the
18 Iran Unit, and Mr. Manarang would work for him.

19 Q. Okay. So he's the No. 2 guy there?

20 A. No, sir, that's not accurate. It is a unit chief and then a
21 number of desk supervisors who work for him.

22 Q. Okay. You don't know where he ranked in that at that time?

23 A. No, sir.

24 Q. Okay. So how many -- between Counterterrorism and ITOS --
25 well, let me ask you what IRU 1 and 2 are as well?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1083

1 A. IRU 1 and 2 are international relations units. They are
2 administrative recipients on any communications we send overseas.

3 Q. Okay. So they are not FBI investigative people. That's just
4 paperwork; is that what you are telling me?

5 A. Yes, sir.

6 Q. Okay. So between counterterrorism and the Iran Unit, how
7 many people did you expect to read this document?

8 A. It would have gone to a fairly small number of people
9 initially within the Iran Unit, probably Special Agent Manarang
10 and any analysts he chose to share it with, and then it could
11 either move up his chain of command or laterally to another unit,
12 as it eventually did.

13 Q. And when you drafted Exhibit 472, this was a very serious
14 matter to you, wasn't it, Agent Samit?

15 A. The most serious, sir, yes.

16 Q. And you wanted to make sure that everybody knew that you
17 thought you had a terrorist in your hands in Minneapolis, right?

18 A. Yes, sir.

19 Q. And if you look down -- go down a little bit, please,
20 Ms. Bishop -- I think this gets to some of what the judge was
21 asking you.

22 What is --

23 A. It does. That does perfectly answer what the judge was
24 asking.

25 Q. Okay. Go ahead and read that to the jury.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1084

1 A. "Request FBIHQ/CTD" -- which is counterterrorism division --
2 "ITOS," and then the "Iran Unit, obtain permission from the
3 Department of Justice Office of Intelligence Policy Review to
4 contact the United States Attorney's Office in the District of
5 Minnesota regarding captioned subject."

6 Q. Go ahead. I'm sorry.

7 A. "Set leads at Paris, London, and Oklahoma City for additional
8 investigation."

9 Q. Okay. And all of this was immediate?

10 A. Yes, sir.

11 Q. Right. And this, this in some way encapsulates the
12 bureaucratic bind that you found yourself in on or about August
13 18th, 2001, right?

14 A. Yes, sir.

15 Q. You couldn't, you couldn't call -- even though Mr. Jones had
16 made a contact with the U.S. Attorney's Office, you couldn't do it
17 again, right? If you were going to follow the rules of the FBI,
18 you were as of August 18th unable to call back and ask for a
19 criminal search warrant?

20 A. Yes, sir, that's correct.

21 Q. And you needed the people in Washington to help you out,
22 right?

23 A. Yes, sir.

24 Q. And they didn't, did they?

25 A. To help me out in terms of getting me permission, is that --

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1085

1 Q. Yes.

2 A. Yes, sir, they did not; that's correct.

3 Q. In fact, they obstructed you is one of the words you like to
4 use, right?

5 A. Yes, sir, I have used that term before.

6 Q. Criminal negligence?

7 A. Yes, sir.

8 Q. Careerism?

9 A. Yes, sir.

10 THE COURT: Agent Samit, can you explain, at the very
11 bottom of that, the term "full field investigation instituted
12 8/15/01"? What does that mean?

13 THE WITNESS: Yes, Your Honor. That's an administrative
14 requirement under the attorney general guidelines. Under the
15 subset of that intelligence case, there are two types of
16 investigations. There is a full field investigation, which is
17 what this was, and then there is a preliminary inquiry.

18 Under a preliminary inquiry, if we have a United States
19 person and we don't have a sufficient weight of probable cause to
20 believe that they are a member of a terrorist group, we can open
21 what we call a preliminary inquiry under which at that time we had
22 a 90-day period to investigate that and do one of three things.

23 We could close that, determine that the reporting we had
24 had no foundation, extend it as a preliminary inquiry, or open it
25 as a full field. But if it was a United States person, that is, a

1 citizen or legal permanent resident, we had to have a pretty good
2 weight of information to prove that that person was acting on
3 behalf of a terrorist group.

4 And in Mr. Moussaoui's case, we were able to open a full
5 field investigation immediately, that is, using all -- that is,
6 giving us the capability of using all the techniques under an
7 intelligence investigation because he was a non-U.S. person,
8 because he was illegally in the United States on a visa waiver.

9 THE COURT: All right, thank you.

10 BY MR. MAC MAHON:

11 Q. All right. And that included -- well, strike that question.

12 Let's move to the, to the second page, if you would,
13 please, Ms. Bishop.

14 I'm sorry, Your Honor, this is a long document. This is
15 going to take us a little while.

16 THE COURT: That's all right.

17 BY MR. MAC MAHON:

18 Q. Thank you. So then what you did in this document, Agent
19 Samit, was, was try to tell the people at headquarters what it was
20 that attracted you -- your office's suspicion to Mr. Moussaoui,
21 right?

22 A. Yes, sir.

23 Q. You wanted them to know that he was taking flight simulator
24 training when it really was totally inappropriate for him to be
25 doing it, right?

1 A. Correct.

2 Q. And you wanted them to know that he was paying cash for it?

3 A. Correct.

4 Q. You wanted them to know that he had no aviation background at
5 all and only wanted to learn how to take off and land a 747?

6 A. Correct.

7 Q. How long did it take you to write this document?

8 A. About a day and a half.

9 Q. Did you have that one note with you when you did it?

10 A. I had my notes from both days, as well as Special Agent
11 Weess's notes.

12 Q. Did Special Agent Weess help you write this?

13 A. No, sir.

14 Q. Then go to the next page, if you would, please.

15 And then you told them about your interviews with
16 Mr. Prevost, right?

17 A. Yes, sir.

18 Q. And you wanted them to know that -- all the information that
19 Mr. Prevost had given you about Moussaoui not claiming to even be
20 a Muslim, right?

21 A. Yes, sir.

22 Q. Okay. And you knew that was a lie, right?

23 A. Yes, sir.

24 Q. And you knew that Prevost thought Moussaoui was unusual, and
25 you knew that was important to tell the people in headquarters,

1 right?

2 A. I did.

3 Q. Okay. Next page, please.

4 And this is more information from Mr. Prevost, right?

5 A. Yes, sir.

6 Q. Can we go down to this -- excuse me, Your Honor.

7 And you wanted the people in headquarters to know about
8 the mode control panel, right?

9 A. I did.

10 Q. You wanted them to know that Moussaoui didn't even know that
11 the aircraft doors couldn't be opened while the plane was flying?

12 A. Correct, yes, sir.

13 Q. And you wanted them to know that because it made absolutely
14 no sense for him to be training on a 747 if he didn't even know
15 the doors couldn't open in flight, right?

16 A. I'm not sure I understand it.

17 Q. You were trying to tell the people at headquarters everything
18 you thought suspicious about Mr. Moussaoui; is that correct?

19 A. Yes, sir, that's correct.

20 Q. And that was one of the things. A real pilot would know that
21 you couldn't open the door on a 747 while it was flying, right?

22 A. A real airline pilot would. I didn't know that at the time,
23 either, until Mr. Prevost told me.

24 Q. Okay. And you wanted him to know about the mode control
25 panel and how it gave the ability to fly, navigate, and sometimes

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1089

1 land in the fully automated manner?

2 A. Yes, sir.

3 Q. And you never passed on to them that Mr. Prevost told you
4 that Moussaoui could actually fly a 747 all by himself, right?

5 A. I'm sorry?

6 Q. You never -- nowhere in this communication does it say that
7 Moussaoui was capable of flying a 747, right?

8 A. It didn't, because Mr. Moussaoui hadn't finished his
9 training, and so that wasn't true.

10 Q. Right. So at the time that you interviewed Mr. Moussaoui, he
11 had absolutely no capability of flying a plane, mode control panel
12 or not, right?

13 A. He had, he had gone through some of the training.
14 Mr. Prevost's estimate at the time was if he had completed his
15 training, he would have been able to, which is one of the reasons
16 why we stopped him from completing his training.

17 Q. All right. But he didn't at the time you arrested him?

18 A. That's correct.

19 Q. Couldn't have flown a plane at all?

20 A. I don't know. I don't know what his level of capability to
21 fly a 747 would have been.

22 Q. Well, by this date, you had the records from Airman Flight
23 School as well, that he had failed at Airman Flight School, right?

24 A. No, sir.

25 Q. You later found that out, before 9/11, right?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1090

1 A. We found it out from Mr. Moussaoui himself that he wasn't
2 progressing in his general aviation flight training for a private
3 pilot's license.

4 Q. And that was true, wasn't it?

5 A. Yes, sir.

6 Q. And he never got a pilot's license, he told you that, right?

7 A. Yes, sir.

8 Q. And the license that you told the jury about last week was
9 really just a medical certificate, wasn't it?

10 A. A student pilot's certificate, yes, sir.

11 Q. Right. And anybody could get one of those that could pass
12 the physical, right?

13 A. Yes, sir.

14 Q. And it doesn't mean a thing about somebody's ability to fly,
15 correct?

16 A. Correct.

17 Q. And you wanted the -- go to page 7, if you would, Ms. Bishop,
18 please.

19 You wanted the people in Washington to know that when
20 you searched Moussaoui, you found a knife, didn't you?

21 A. Yes, sir.

22 Q. You found two knives?

23 A. Correct.

24 Q. And you wanted the people in Washington to know that because
25 you thought somebody could use a knife to hijack an aircraft,

1 right?

2 A. Yes, sir.

3 Q. Okay. And those are the two knives you held up last week?

4 A. Yes, sir.

5 Q. Same knives, right?

6 A. Those knives, yes, sir.

7 Q. Okay. And you alerted the people in Washington to the fact
8 that Moussaoui had these knives?

9 A. I did.

10 Q. And you alerted them to the fact that Moussaoui had a
11 walkie-talkie, right, and other aviation study materials?

12 A. Yes, sir.

13 Q. Did anybody from Washington ever ask you what is Moussaoui
14 doing with all these aviation study materials before 9/11?

15 A. No, sir.

16 Q. Anybody ask you why he had all these knives?

17 A. No, sir.

18 MR. MAC MAHON: Go to page 8, if you would, please,

19 Ms. Bishop. Go down to the bottom, please.

20 BY MR. MAC MAHON:

21 Q. And you wanted the people in Washington to know what you had
22 learned about Moussaoui being an extremely religious Muslim who
23 often spoke against Israel and the United States and questioned
24 why the Israelis are killing Muslims, right?

25 A. Yes, sir.

1 Q. Okay. Why did you include that in your communication?

2 A. To illustrate to them the fact that he was an Islamic
3 fundamentalist, radical in his beliefs.

4 Q. All right. And as support for your belief that he was a
5 terrorist, too, right?

6 A. Yes, sir.

7 Q. Okay. Let's go to the next page, if we could.

8 You wanted the people in Washington -- do you see that
9 there on the top page -- you wanted the people in Washington to
10 know that you had learned before August 18th, 2001 that Moussaoui
11 believed it was acceptable to kill civilians, right?

12 A. Yes, sir.

13 Q. And you wanted them to know that he approved of martyrs,
14 right?

15 A. Yes, sir, that's correct.

16 Q. Okay. What is -- what did you know about the concept of
17 martyrdom in Islamic fundamentalism on or about August 18th, 2001?

18 A. I knew that radicals considered that dying while fighting
19 infidels, while fighting non-Muslims, was considered martyrdom and
20 was considered a very honorable way to die in Islam.

21 Q. All right. And that's, that's another -- you can attribute
22 to whatever -- that's a Bin Laden-al Qaeda trademark to talk about
23 martyrdom as well, correct?

24 A. It is one of -- they are one of the groups that talks about
25 martyrdom. There is many other groups that speak about martyrdom

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1093

1 as well. So to call it a trademark is not -- a Bin Laden

2 trademark is not accurate, no, sir.

3 Q. You knew before this date, August 18th, 2001, that Bin Laden
4 had used martyrdom to recruit suicide -- people to commit suicide
5 while killing Americans, didn't you?

6 A. Yes, sir.

7 Q. And that's why you put this in there, right? You wanted them
8 to know that that's what you were dealing with, somebody who talks
9 about martyrdom, right?

10 A. Yes, sir, but not in the context of Bin Laden. There had
11 been plenty of other terrorist groups who had used martyrs to kill
12 Americans as well.

13 Q. Well, Bin Laden's name is in this 302, isn't it?

14 A. This is an electronic communication, sir.

15 Q. Bin Laden's name is in this, too, isn't it?

16 A. It is, yes, sir.

17 Q. So you were also telling Washington that there was a Bin
18 Laden, at least an interest in Mr. Moussaoui and Usama Bin Laden
19 as well, right?

20 A. Yes, sir.

21 Q. And it says, it says here that al-Attas was asked if he had
22 ever heard Moussaoui make a plan to kill those who harmed Muslims
23 and in doing so become a martyr, and that al-Attas admitted that
24 he may have heard that.

25 A. Yes, sir.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1094

1 Q. That was pretty remarkable to you, wasn't it?

2 A. It was.

3 Q. And you wanted the people in Washington to know that as well,
4 too, right?

5 A. I did.

6 Q. And you wanted him to know -- the people in Washington to
7 know Moussaoui's opinions about Muslims preparing to fight, right?

8 A. Yes, sir.

9 Q. That Moussaoui had persuaded al-Attas to begin physical
10 exercise and martial arts training?

11 A. That's correct, yes, sir.

12 Q. And that they were, in fact -- Moussaoui was, in fact,
13 training in the martial arts before August 18th, 2001, right?

14 A. Yes, sir.

15 Q. And you later told the FBI that you thought he was doing that
16 to prepare to hijack an airplane and to disable the crew, right?

17 A. Yes, sir, I did.

18 Q. Go down a little further, please.

19 You asked al-Attas -- you wanted the people in
20 Washington to know that you had asked al-Attas about whether he
21 was interested in going to fight jihad, right?

22 A. That's correct, yes, sir.

23 Q. All right. And that was holy war jihad, right?

24 A. Correct.

25 Q. And al-Attas had -- you wanted the people in Washington to

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1095

1 know, when it says that he reacted with surprise, he had a little
2 trouble answering that question, right?

3 A. Yes, sir.

4 Q. That's because you didn't believe him, you wrote that down to
5 say you didn't believe him and you thought he was preparing for
6 jihad?

7 A. No, sir. In fact, he reacted with surprise that I asked the
8 question. I absolutely did believe him when he said he was
9 preparing to fight, when Mr. al-Attas said that.

10 Q. Then I didn't ask you the question properly.

11 You knew at that time, regardless of what he answered to
12 your question, that he was preparing to go fight jihad, holy war,
13 right?

14 A. Yes, sir.

15 Q. And you wanted everyone in Washington to know that as well,
16 right?

17 A. Correct.

18 Q. Go to the next page, please.

19 You wanted the people in Washington to know that
20 Al-Attas said he was willing to fight if called, right?

21 A. Yes, sir.

22 Q. You wanted them to know that Al-Attas had told you that
23 Moussaoui had received \$10,000 from overseas via a bank in Norman,
24 Oklahoma?

25 A. Yes, sir.

1 Q. Right? And that was a sign to you of, of money coming from
2 overseas, as something of particular interest to you, right?

3 A. Yes, sir.

4 Q. And you wanted the people in Washington to know that, right?

5 A. Correct.

6 Q. Go to the next page, please.

7 And you then wanted the people in Washington to know
8 that al-Attas actually had a will in his possession, right?

9 A. Yes, sir.

10 Q. And why did you want to tell them that, Agent?

11 A. Because a will might be, especially drawn up by a young,
12 healthy person, might be an indicator of somebody who is preparing
13 to die in the near future.

14 Q. And you did a good job tricking Mr. al-Attas into telling you
15 that it was a will, didn't you?

16 A. No, sir. It wasn't intentional, the trick.

17 Q. I am trying to give you credit, Agent.

18 A. Thank you. I appreciate that.

19 Q. You picked up, you picked up an Arabic document, pretended
20 you could read it, and the guy blurted out "that's my will,"
21 right?

22 A. No, sir, that's not correct.

23 Q. What happened? Tell the jury what happened.

24 A. I picked up an Arabic document and looked at it. I realized
25 later that Mr. al-Attas believed that I actually read it. I

1 didn't pretend to read it. I wouldn't pretend to read Arabic

2 because that would be an obvious -- that would be a facade that

3 could be seen through fairly obviously.

4 Q. But whatever, whatever your intention was, the result of your
5 action was that he blurted out that he had a will?

6 A. Yes, sir.

7 Q. Right. Let's go down, please. And you wanted the people in
8 Washington to know that Moussaoui was looking for a GPS receiver?

9 A. Correct, yes, sir.

10 Q. Why did you want to tell them that?

11 A. Because a GPS is something that allows a complete novice to
12 navigate very easily by air.

13 Q. And that concerned you in terms of Moussaoui having some plan
14 to hijack an aircraft and use the GPS for navigation, right?

15 A. Correct.

16 Q. And that's exactly why you told that to the people in
17 Washington, right?

18 A. Yes, sir.

19 Q. And you found -- you wanted them to know that al-Attas was
20 actually -- had a visa application to go to Pakistan, right?

21 A. Yes, sir.

22 Q. And you wanted the people in Washington to know that because
23 that meant to you that he might be going to the camps in
24 Afghanistan, right?

25 A. That's not why, sir. It was another data point. I didn't

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1098

1 know that he would be going to the camps. I didn't know that -- I
2 still don't know that that was the plan.

3 Q. Well, you know that, you knew as of this date -- well, you
4 believed as of this date that Moussaoui was recruiting al-Attas,
5 at the very least, to go to Pakistan for jihad, right?

6 A. I knew as of this date that Mr. al-Attas was planning to go
7 to Pakistan, and that I didn't believe his story. And I knew that
8 Mr. Moussaoui had assisted him at least in filling out his
9 application for a visa.

10 Q. Right. You found out that al-Attas told you that Moussaoui
11 actually filled out the application, right?

12 A. Yes, sir.

13 Q. And it was a bogus application, wasn't it?

14 A. I didn't know that at the time, no, sir.

15 Q. Go to the next page, please. Go down to the bottom
16 paragraph, please. Thank you.

17 This is what we were just talking about, right, you
18 wanted the people in Washington to know that Moussaoui was helping
19 him complete a visa application, right?

20 A. Yes, sir.

21 Q. And you knew in August of 2001 that it was against United
22 States law to recruit people to go overseas and become terrorists,
23 right?

24 A. Yes, sir.

25 Q. And you learned within a couple days of this that Moussaoui

1 had a history of recruiting people to go, to fight as terrorists,
2 right?

3 A. At the time the group that Mr. Moussaoui recruited a person
4 for, they were not terrorists, they were not a designated
5 terrorist group.

6 Q. I will ask you this. You knew, you knew within a couple of
7 days that Moussaoui had a history of recruiting Muslim
8 fundamentalists to go off and fight war in foreign lands, right?

9 A. Yes, sir, that's correct.

10 Q. And you never, never saw a predicate criminal act in
11 recruiting Hussein al-Attas to go do the same thing once you
12 learned that that's what he -- an act that he had already done
13 before?

14 A. Mr. al-Attas never, never told us that Mr. Moussaoui
15 recruited him for that. The only thing Mr. al-Attas told us was
16 that he helped him prepare the visa application. Mr. al-Attas
17 stuck to his story, in fact, that he was going to assist his
18 uncle.

19 Q. So if you learned that Moussaoui was recruiting Muslim
20 fundamentalists to go fight in far-off lands, it never occurred to
21 you that you had probable cause to believe that he was committing
22 a violation of American criminal law while recruiting Hussein
23 al-Attas as well, right?

24 A. If I had understood that, it certainly would have occurred to
25 me that he was recruiting him.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1100

1 Q. So when you got the information about Moussaoui, the
2 recruiter, it didn't occur to you that that was a criminal act
3 that you could have tried to indict him for and get a search
4 warrant or anything else?

5 A. Yes, sir, it would fall under the same heading of the other
6 criminal acts I suspected Mr. Moussaoui of. We still required the
7 authority of the Department of Justice to go to the United States
8 Attorney.

9 Q. But you never, you never went -- this information certainly
10 wasn't obtained by any kind of FISA, right, the information about
11 Pakistan and Hussein al-Attas?

12 A. Yes, sir, it was not. It was obtained by an interview.

13 Q. Right. But you could have learned from that in that time
14 frame that there was a separate crime that Moussaoui had committed
15 that you could have gone -- that had nothing to do with your 199
16 investigation, right?

17 A. Sir, that would -- the other one I think you are referring to
18 did not occur in, through, or involving U.S. persons in the United
19 States, so that second recruitment at the time would not have been
20 a violation of U.S. federal law.

21 Q. Recruiting Hussein al-Attas to go fight overseas would have
22 been a violation?

23 A. Yes, sir. And if I had known that, I certainly would have
24 included it.

25 Q. It didn't show up in any of your documents?

1 A. Correct, because I didn't know that, sir.

2 Q. All right. Go to page 13 if you would, please.

3 This is where in your communication you start to tell
4 the people in Washington what you have learned from Mr. Moussaoui,
5 right?

6 A. Yes, sir, where I begin documenting the interview.

7 Q. Right. And you knew in that, before the interview started,
8 that Moussaoui was a liar, right?

9 A. I'm not sure I understand, sir.

10 Q. You said he was a bad liar, didn't you?

11 A. He hadn't, at that point, he hadn't really been asked any
12 questions yet.

13 Q. Let me ask you this. It was a bad question.

14 By the time you filled this, you created this exhibit,
15 you knew that Moussaoui had lied to you, didn't you?

16 A. Yes, sir.

17 Q. And you said here that he was very -- he was very evasive in
18 many of his answers and that rather than giving answers to
19 seemingly innocuous questions directly, he would inquire -- he was
20 very talkative, right?

21 A. Yes, sir.

22 Q. Nowhere in here did you ever write that you told Moussaoui
23 how important it was that he be truthful to you, right?

24 A. That's correct, I did not.

25 Q. It is not written in here at all, right?

1 A. No, sir.

2 Q. And you have never given us any notes that say that you asked
3 him that?

4 A. Correct.

5 Q. But he got extremely agitated when he understood the line of
6 questioning to pertain to his religious beliefs, overseas travels
7 and associates, and the source of financial support, right?

8 A. Yes, sir.

9 Q. And from your training as an FBI agent, when he got agitated
10 and evasive about those issues, you knew you were on to something,
11 didn't you?

12 A. Yes, sir.

13 Q. And down here at the bottom where Moussaoui told you that he
14 got saved by a French senator at one point in time --

15 A. Yes, sir.

16 Q. -- you knew that was a lie, didn't you?

17 A. I did not know that was a lie.

18 Q. He was very insistent on completing his training, right?

19 A. Yes, sir.

20 Q. You wanted the people in Washington to know that because you
21 were concerned that Moussaoui was going to hijack a plane, right?

22 A. Yes, sir.

23 Q. Go to, if you would, page 16. I'm sorry, hold on, just a
24 second, Your Honor, excuse me.

25 Yeah, page 16. At the top of 16, we don't need to read

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1103

1 it, but Moussaoui told you a lot about his family, didn't he?

2 A. Yes, sir.

3 Q. Told you that he had an older brother named Ab Sumad?

4 A. Yes, sir, he did.

5 Q. That was true, wasn't it?

6 A. It was.

7 Q. And that he was a French citizen, that was true?

8 A. Yes, sir.

9 Q. And that he was born in St. Jean de Luz, France, right?

10 A. Yes, sir.

11 Q. His parents were Moroccan?

12 A. Yes, sir.

13 Q. All the information he gave you about his family was true,
14 wasn't it?

15 A. Yes, sir. Well, no, sir. I want -- I should correct that.

16 Not all the information that he gave me about his family was true.

17 Q. But you were --

18 A. His reasons, his reasons for his split from them were not
19 true. The fact that it was a personal matter, the fact that he
20 didn't see eye to eye --

21 Q. We will get to that exhibit.

22 A. Yes, sir.

23 Q. We have to be -- we have got to be careful here with the
24 exhibits.

25 A. Yes, sir.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1104

1 Q. So I am trying to -- looking on, it says here, that Moussaoui
2 volunteered to you that he just recently had visited Malaysia,
3 right?

4 A. I'm sorry, sir, I am not with you.

5 Q. Do you see on page 16? I just circled it: "Moussaoui was
6 asked about his foreign travel and answered that he had traveled
7 to Morocco and all over Europe. He advised that in connection
8 with the Indonesian telephone card venture he visited Malaysia for
9 approximately three weeks."

10 A. Yes, sir.

11 Q. And he didn't have any passport stamps or anything to
12 indicate he had been to Malaysia, right?

13 A. He did not.

14 Q. He just volunteered that information to you?

15 A. Yes, sir.

16 Q. And it was true, wasn't it?

17 A. Yes, sir, I found out later it was.

18 Q. And nobody in the United States Government on or about August
19 18th or before 9/11 told you that there was -- the government had
20 information about Bin Ladenites traveling through Malaysia on
21 their way to the United States, right?

22 A. Correct.

23 Q. So this was a completely innocuous fact to you, that he had
24 been to Malaysia, right?

25 A. It was, yes, sir.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1105

1 Q. Did anybody ever from the CIA or any agency ever call you and
2 ask you if you had information of whether Moussaoui had been in
3 Malaysia?

4 A. No, sir.

5 Q. Did they ever tell you that there were two Usama Bin Laden
6 known terrorists who had traveled from Malaysia to the United
7 States wandering around our country?

8 A. Before 9/11?

9 Q. Yes.

10 A. No, sir.

11 Q. Now, at the bottom, if we can go to the bottom, please,
12 Ms. Bishop -- could we read that, read the bottom paragraph, if
13 you would.

14 A. "When asked if he traveled outside Pakistan to another
15 country during this trip or if he had visited any other cities in
16 Pakistan, Moussaoui did not answer directly, but instead claimed
17 that he was aware of what the interviewing agents were trying to
18 accuse him of as a result of his having watched television. This
19 line of questioning caused him to become extremely agitated, and
20 he refused to discuss the matter further."

21 Q. Okay. You knew you hit gold again, didn't you, Agent?

22 A. I'm not sure what, what you mean.

23 Q. Agent, you asked him this question because you, you assumed
24 from everything you had learned in your investigation that
25 Moussaoui's trip to Pakistan included a trip to Afghanistan,

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1106

1 didn't you?

2 A. I assumed it, sir. But if you look at the paragraph above,
3 he told me that he remained in Karachi, Pakistan, the whole time,
4 and he never, he never, again, in response to numerous direct
5 questions, he told me that he had only remained in Karachi and
6 so --

7 Q. But you knew he was a liar, right?

8 A. That's right. I didn't know he was lying on this point.

9 Q. Agent Samit, why did you ask him if he traveled outside of
10 Pakistan if you didn't believe he had gone to Afghanistan?

11 A. What I believed and what I could prove were two different
12 things, sir.

13 Q. So you needed Moussaoui to tell you that he had been to
14 Afghanistan for you to form a probable cause finding that he had
15 traveled to anywhere in Afghanistan; is that what you are saying?

16 A. His admission would have been one way by which I could prove
17 it. Investigation by our office in Pakistan would have been
18 another way.

19 Q. Or information from France on August 30 that said he had
20 recently traveled to Afghanistan, that would have helped too,
21 wouldn't it?

22 A. Yes, sir, but it wasn't August 30th when this document was
23 written.

24 Q. Well, it was 12 days later that you learned that, right?

25 A. I would have to see what document specifically you are, you

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1107

1 are referring to.

2 Q. Are you saying you don't remember any documents that
3 confirmed that a somewhat reliable source had told you that
4 Moussaoui had been to Afghanistan?

5 A. I'd have to see that document, sir, to refresh my memory.

6 Q. But sitting here you don't recall it?

7 A. I recall a document on August 30th, yes, sir, but I would
8 need to, I would need to review that.

9 Q. Go to -- let me ask you this: You never asked Moussaoui the
10 direct question of "have you ever been to Afghanistan," have you?

11 A. That's correct.

12 Q. Never asked him that?

13 A. I did not.

14 Q. Never asked him whether he had been to a terrorist training
15 camp?

16 A. No.

17 Q. Just kind of nibbled around the edges, right?

18 A. Yes, sir.

19 Q. Because you hoped over time to continue to interrogate him
20 and wear him down, right?

21 A. No, sir, because I wanted to continue the interview,
22 certainly, but any time I nibbled around the edges, as you say, he
23 got very upset. He got extremely agitated.

24 Q. Right. And the things that he got agitated about were the
25 things you knew he was lying about, right?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1108

1 A. No, sir. I knew those were the things he was reluctant to
2 discuss. That didn't equate automatically to a lie, no, sir.

3 Q. In this, in this document you called Moussaoui very
4 deceptive, right?

5 A. Yes, sir, he was.

6 Q. And you never asked Moussaoui specifically whether he ever
7 had weapons training at a terrorist camp at all, right?

8 A. Weapons training in general.

9 Q. Just you said: Did you ever have weapons training in
10 general?

11 A. Yes, sir.

12 Q. Do you remember that specific question?

13 A. I do.

14 Q. And nothing more, nothing less about that?

15 A. Correct. Have you ever received any training with weapons --

16 Q. Okay.

17 A. -- was the question.

18 MR. MAC MAHON: Are we on page 18, Ms. Bishop?

19 MS. BISHOP: 17.

20 MR. MAC MAHON: Oh, I'm sorry, put 17 up, if you would,
21 please.

22 Go down just a little bit, please, to the first
23 paragraph, can be shown. No, the one on the top.

24 Q. Agent Samit, you wanted the people in Washington -- oops, too
25 hard. Sorry, Your Honor. Thank you. Excuse me, Judge.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1109

1 THE COURT: All right.

2 BY MR. MAC MAHON:

3 Q. This paragraph here, Agent Samit, right?

4 A. Yes, sir.

5 Q. You wanted the people in Washington to know all this
6 information about Moussaoui's travel, right, that you had
7 uncovered?

8 A. Yes, sir, that's correct, I did.

9 Q. Including the fact that he had been to Malaysia, correct?

10 A. Correct.

11 Q. And that he didn't have a passport that showed he went to
12 Malaysia?

13 A. That's correct.

14 Q. And you wanted them to know that Moussaoui claimed his prior
15 passport had gone through the washing machine, right, right here?

16 A. Yes, sir, yes, sir.

17 Q. And nobody ever called and asked you any questions about this
18 at all, did they?

19 A. They did not.

20 Q. Now, if you go down a little bit, please, Ms. Bishop, to this
21 paragraph. You wanted the people in Washington to know that
22 Moussaoui in his spare time read fatwahs?

23 A. Actually that paragraph said that he, his claim was he did
24 not study fatwahs.

25 Q. Well, it says that he was, he studied fatwahs, but he just

1 wasn't able to read them, right?

2 A. Correct, that's what it says.

3 Q. But did he tell you he listened to them on tape?

4 A. He didn't.

5 Q. Tell the people in the jury what a fatwah is.

6 A. Fatwah is a religious ruling issued by an Islamic scholar.

7 Q. Did you ask him what kind of fatwahs he was, he was
8 interested in?

9 A. No.

10 Q. And that's something in your training you learned could flesh
11 out somebody who was a fundamentalist, if you could find out what
12 fatwahs they were interested in, right?

13 A. Yes.

14 Q. Like Bin Laden's fatwah saying it was acceptable to kill
15 Americans wherever they could be found, right?

16 A. Yes, sir.

17 Q. Did you ever ask Moussaoui if he had read that fatwah?

18 A. I did not, because he said he didn't read any fatwahs.

19 Q. Did you ask him if he ever heard that fatwah?

20 A. No, I did not.

21 Q. Go to the next page, if you would, please.

22 And in that interview one of the things Moussaoui told
23 you he wanted to do in our country was to go see the Statue of
24 Liberty, the Empire State, or the White House, right?

25 A. Yes, sir.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1111

1 Q. And you thought that was an important thing to tell the
2 people in Washington, didn't you?

3 A. Yes, sir.

4 Q. All right. Especially the part about the White House, that
5 was of grave concern, wasn't it, to you, Agent?

6 A. Sir, any part of the United States that Mr. Moussaoui was
7 interested in was of grave concern to me. At that point because
8 he mentioned the White House, certainly being the most prominent
9 mark, it was, but every place was important to me.

10 Q. I appreciate that, but what I meant to ask you or follow up
11 is that after knowing that Moussaoui was interested in what you
12 will say in this document in hijacking a plane, you wanted to tell
13 the United States Secret Service about him, didn't you?

14 A. Yes, sir.

15 Q. All right. And that authority to do that was rejected, too,
16 as well, wasn't it?

17 A. No, sir, the Secret Service was advised about this.

18 Q. They were?

19 A. That wasn't rejected.

20 Q. Did this -- did this document go to the United States Secret
21 Service?

22 A. The summary of the information contained in it did, yes, sir.

23 Q. Including your conclusion that Moussaoui wanted to hijack an
24 airplane, disable the crew, and have -- and do his -- use the
25 plane for his own ends?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1112

1 A. Including my investigative speculation to that effect, no,
2 sir, it did not.

3 Q. Just the e-mail that we will look at later, that's all that
4 went to them?

5 A. No, sir, there was a cable sent from the FBI to them.

6 Q. A cable from the FBI to the United States Secret Service?

7 A. Yes, sir.

8 Q. Have you seen that?

9 A. Yes, sir.

10 Q. What does it say?

11 A. It contains much of the biographical information of
12 Mr. Moussaoui, as well as his flight training and the fact that he
13 was considered suspicious.

14 Q. When was that sent?

15 A. September 4th.

16 Q. Did it mention that Moussaoui, that your investigative theory
17 was that Moussaoui wanted to hijack a plane, disable the crew, and
18 do as he wished with the plane?

19 A. I would like to look at it, but it did not mention my
20 investigative conclusions, my investigative speculation.

21 Q. I'd like to look at it too, Agent.

22 THE COURT: No comments.

23 MR. MAC MAHON: Thank you, Your Honor, I'm sorry.

24 BY MR. MAC MAHON:

25 Q. And go to page 19, if you would. You wanted the people in

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1113

1 Washington to know that part of your investigation uncovered
2 interest by Mr. Moussaoui in Usama Bin Laden, right?

3 A. I wanted them to know that I was interested in trying to
4 uncover interest by Mr. Moussaoui in Usama Bin Laden, yes, sir.

5 Q. Well, you did uncover that? Hussein al-Attas said they were
6 watching TV and Moussaoui called his attention to it?

7 A. Yes, sir, but Mr. al-Attas also said in that sentence above
8 the first circle of Bin Laden that he didn't believe that Bin
9 Laden was his sheikh.

10 Q. So you needed someone to confirm that -- how many other ECs
11 or documents like this have you written that make three references
12 to Usama Bin Laden?

13 A. Oh, many, numerous, yes, sir.

14 Q. Really?

15 A. Yes, sir.

16 Q. What about this language here about teaching children to ride
17 a horse, know how to fight, all that language? Why did you tell
18 the government that?

19 A. Because it is something that Mr. al-Attas said. Sir, maybe I
20 should, I should explain because it is the theme of your
21 questioning. My job as an investigator is to take in all the
22 information I possibly can.

23 Anything anyone says about the subject, anything that I
24 am able to find about the subject, has to be included in my report
25 to headquarters, and so --

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1114

1 Q. But this specifically, Agent Samit, is teach your children
2 how to swim, ride a horse, and know how to fight, something from
3 your training you know Usama Bin Laden says in his recruiting
4 videos?

5 A. No, sir.

6 Q. You have never seen any of those?

7 A. No, I haven't.

8 Q. Anybody in Washington ever call you back after they read this
9 and ask you questions about Usama Bin Laden?

10 A. Relating to Mr. Moussaoui?

11 Q. Yes.

12 A. No, sir.

13 Q. It says, "Moussaoui didn't like countries that don't adhere
14 to strict Islamic law." You wanted the people in Washington to
15 know that as well, right?

16 A. Yes, sir.

17 Q. Can we go to page 21, if you would, please.

18 Now, you, last week when we were in court, you turned to
19 Mr. Moussaoui and said that you told him that he was going to have
20 to answer to the American people, words to that effect?

21 A. Yes, sir.

22 Q. Right. And that's nowhere written in any of these documents,
23 is it?

24 A. Yes, sir. The purpose of these documents is --

25 Q. Agent, the exact words --

1 MR. NOVAK: Your Honor, I object. Give him a chance to
2 answer the question, please.

3 THE COURT: Well, if the answer is nonresponsive, it is
4 not appropriate. So I am going to overrule the objection. Reask
5 your question, Mr. MacMahon.

6 BY MR. MAC MAHON:

7 Q. The statement that you made in court last week that you had
8 this dramatic moment where you turned to Moussaoui and said: If
9 you don't tell me the truth, there is going to be consequences,
10 that isn't anywhere in any of these documents that you wrote, is
11 it?

12 A. That's correct.

13 Q. Thank you.

14 And you confronted him with the information that he was
15 known to be an extremist intent on using his past and future
16 aviation in furtherance of a terrorist goal, right?

17 A. Yes, sir.

18 THE COURT: All right, Mr. MacMahon, we're going to try
19 to stay very tight on schedule.

20 MR. MAC MAHON: Thank you, Your Honor.

21 THE COURT: So I will give the jury 15 minutes. It will
22 be slightly after 20 after we'll reconvene. Thank you.

23 (Recess from 11:05 a.m., until 11:25 a.m.)

24 (Defendant and Jury in.)

25 THE COURT: All right, sir.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1116

1 MR. MAC MAHON: May I proceed, Your Honor?

2 THE COURT: Yes, sir.

3 MR. MAC MAHON: Thank you.

4 Q. Page 21 of your document, sir. It says here that Moussaoui
5 was asked to provide the name of his group, the religious scholars
6 they followed, and to describe his plan in detail. Right?

7 A. Yes, sir.

8 Q. Okay. You asked him what his plan was, right?

9 A. Yes, sir.

10 Q. You didn't ask him what other al Qaeda plans he knew about,
11 what other terrorist plans he knew about, or whatever else was
12 inside of his head? You asked him what his plan was in detail,
13 right?

14 A. Yes, sir. We also asked what the plan was in general.

15 Q. Where is that written down here?

16 A. That's not.

17 Q. Well, didn't you want the people in Washington to know you'd
18 asked that question, too?

19 A. Well, sir, to get back to what I was answering earlier, these
20 reports contain what the person says, what the subject of the
21 interview says. They're not intended to contain what I say.

22 Q. All right. So your questions are nowhere to be found in this
23 document, right?

24 A. Yes, sir, that's correct.

25 Q. And there's nowhere where you kept a list of the questions

1 you asked him or anything else?

2 A. Correct.

3 Q. All right. And the piece of paper back at your office
4 doesn't list the questions, either, right?

5 A. The piece of paper?

6 Q. Your notes from this. They don't --

7 A. No, sir, I don't typically write down the questions and then
8 the answers.

9 Q. But you did say that you -- in this document, you told
10 Washington that you asked him to describe his plan in detail?

11 A. Yes, sir, I did.

12 MR. MAC MAHON: All right. Go down if you would,
13 please, Ms. Bishop.

14 Q. Now, we go into this document where you're starting to tell
15 the people in Washington what you as the agent on the street with
16 the firsthand knowledge of what's going on is opining as to what's
17 happening, right?

18 A. Yes, sir, my opinions.

19 Q. Right. And then you give your opinions to your superiors,
20 and then they're the ones that submit the warrant applications,
21 right?

22 A. For -- I'm not sure what type of warrant.

23 Q. In this situation, you needed help from the people in
24 Washington to, to, to move this case forward, right?

25 A. Yes, sir, that's correct.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1118

1 Q. Okay. And that's what your -- the purpose of what we're
2 about to read is for you to tell them what you have learned in
3 your investigation, what you think happened?

4 A. My opinion is based on what I've learned, yes, sir.

5 Q. Okay. Well, why don't you read that on the bottom, please.

6 A. The last paragraph?

7 Q. Yeah?

8 A. "Minneapolis believes that Moussaoui is an Islamic extremist
9 preparing for some future act in furtherance of radical
10 fundamentalist goals. The numerous inconsistencies in his story,
11 his two-month long" --

12 Q. Hold on a second. Let Ms. Bishop get the document up again.

13 A. "His two-month-long trip to Pakistan, which ended less than
14 three weeks before coming to the U.S., and his inability to
15 explain his source of financial support all give cause to believe
16 he is conspiring to commit a terrorist act, especially when this
17 information is combined with his extremist views as described by
18 al-Attas in his sworn statement."

19 Q. Okay. Now, when you wrote that to the people in Washington,
20 did they ever call and ask you why you believed it was that
21 Moussaoui was conspiring to commit a terrorist act?

22 A. No, sir.

23 Q. Okay. Let's look at the next paragraph.

24 A. "As Moussaoui was in the process of gathering the most
25 knowledge and skill possible in order to learn to fly the Boeing

1 747-400, Minneapolis believes that his plan involved an aircraft
2 of this type. This is especially compelling when considering that
3 the 400 series of this aircraft has a smaller flight crew and is
4 more automated than other versions, lending itself to simpler
5 operation by relative novices.

6 "His request of Pan Am that he be permitted to fly a
7 simulated flight from London's Heathrow Airport to New York's JFK
8 Airport is suggestive and gives Minneapolis reason to believe that
9 he may have been attempting to simulate a flight under the
10 conditions which he would operate while putting his plan into
11 motion in the future."

12 Q. Right. And what you were trying to tell the people in
13 Washington here was that you thought that Moussaoui was going to
14 try to hijack a plane with the flight path being to New York City
15 or its environs, right?

16 A. I told them that it was possible.

17 Q. That was what your investigation had uncovered to date. You
18 believed that Moussaoui was going to hijack a plane from Heathrow
19 Airport to New York, right?

20 A. No, sir. My investigation uncovered enough suspicious facts
21 to give me reason to opine that that may have been what he was
22 trying to do.

23 Q. And you opined to the people in Washington, and you didn't
24 hear a thing back, did you?

25 A. Sir, to say that I didn't hear a thing back is inaccurate.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1120

1 There was a constant dialogue going back and forth between us and
2 our headquarters in Washington, as well as other members of the
3 intelligence community.

4 Q. About your theory that there was a hijacking plan afoot?

5 A. Yes, sir.

6 Q. Keep reading, Agent.

7 A. "Since it is reasonable to expect that some time might have
8 elapsed between Moussaoui's training at Pan Am and the execution
9 of his plan, Minneapolis believes that he may have intended to
10 amass a large supply of study aids, which would have allowed him
11 to maintain reasonable currency or at least familiarity with the
12 747-400 aircraft in the interim. Minneapolis believes that this
13 is why he purchased the PowerPoint software in such a hurried
14 fashion after viewing the briefings provided him at Pan Am and why
15 he had in his possession several 747-400 flight manuals."

16 Q. Okay. Did anyone from Washington ever ask you for copies of
17 any of these flight manuals?

18 A. No, sir, not before 9/11.

19 Q. Right. And you could have gotten exact replicas of what you
20 saw in the hotel room and given them to the people in Washington
21 had they asked, right?

22 A. Yes, sir.

23 Q. Keep reading.

24 A. "Although al-Attas claimed to have no knowledge of
25 Moussaoui's actual plan, Minneapolis opines that he was being

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1121

1 deceptive in trying to minimize both his understanding of and
2 involvement in whatever Moussaoui was planning to do. In addition
3 to the numerous inconsistencies in his story regarding his reasons
4 for coming to Minneapolis, al-Attas's explanation for his planned
5 travel to Pakistan likewise is far-fetched. Minneapolis believes
6 that al-Attas intends to travel to Pakistan to receive training or
7 indoctrination which will be used in furtherance of this plan."

8 Q. Okay. Keep going.

9 A. "On the basis of investigation to date, Minneapolis has
10 reason to believe that Moussaoui, al-Attas, and others yet unknown
11 are conspiring to commit violations of the Federal Criminal Code
12 as set forth in Title 18, Section 2332(b), entitled 'Acts of
13 Terrorism Transcending National Boundaries,' in that they are
14 attempting or conspiring to destroy or damage any structure,
15 conveyance, or other real or personal property within the United
16 States. Further, statements made by both Moussaoui and al-Attas
17 demonstrate that they have used interstate and foreign commerce in
18 furtherance of this offense."

19 Q. All right. Now, let's stop for a second. 2332(b) is one of
20 the counts in this indictment that Mr. Moussaoui pled guilty to,
21 isn't it?

22 A. Yes, sir.

23 Q. Okay. And you came up with 2332(b) on or about August 18 by
24 consulting with the chief counsel of the FBI's office in
25 Minneapolis, right?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1122

1 A. No, sir.

2 Q. You didn't spend any time with Coleen Rowley at this time?

3 A. I did, but I didn't come up with -- prior to this document
4 being authored, no, and I didn't come up with 2332(b) in
5 consultation with her at any time.

6 Q. Okay. Then how did you come up with -- it says here that you
7 had reason to believe that Moussaoui was violating a crime known
8 as "Acts of Terrorism Transcending National Boundaries." Where
9 did you find that in the code?

10 A. Sir, as agents, we have access to the criminal code book as
11 well, and we review that all the time.

12 Q. So you didn't need a lawyer to help you figure that out, did
13 you?

14 A. No, sir.

15 Q. Read the next paragraph.

16 A. "In addition, information developed relating to Moussaoui's
17 training on the Boeing 747-400 aircraft gives reason to believe
18 that he is also conspiring to commit violations as specified under
19 Title 18, Section 32, entitled 'Destruction of Aircraft or
20 Aircraft Facilities', in that, on the basis of his possession of
21 weapons and his preparation through physical training for violent
22 confrontation, his plan is believed to involve the performance of
23 violence or incapacitation of individuals on aircraft in the
24 special aircraft jurisdiction of the United States or on any civil
25 aircraft employed in foreign air commerce, for the purpose of

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1123

1 seizing control of the aircraft for his own ends. Investigation
2 has not yet shown what these ends are, but information pertaining
3 to this is expected to be developed through future investigation."

4 Q. Okay. And how did you find Title 18, Section 32?

5 A. Same way, sir.

6 Q. Without any help from a lawyer?

7 A. Correct.

8 Q. And that's one of the charges that Mr. Moussaoui has pled
9 guilty to as well, right?

10 A. Yes, sir.

11 Q. Can you -- when you told the people in Washington that
12 Moussaoui was in the possession of weapons that he was going to
13 use to seize control of a civil aircraft, what weapons were you
14 talking about?

15 A. The knives, sir.

16 Q. The knives you held up in court last week?

17 A. Yes, sir.

18 Q. You didn't tell the people in Washington that those were
19 knives?

20 A. I told them earlier in the report, sir.

21 Q. Did anybody from Washington ever call you after you sent this
22 up and before 9/11 to ask you what size the knives were or what
23 you thought he was going to do with them?

24 A. No, sir.

25 Q. Did anybody ever call and ask you why you believed that he

1 was preparing through physical confrontation to seize -- to
2 incapacitate individuals on an aircraft?

3 A. No, sir.

4 Q. Did anyone ask you what physical training you thought he was
5 engaged in to prepare to take over an aircraft?

6 A. No, sir.

7 Q. Now, you never -- you didn't, you didn't believe in this time
8 frame that Moussaoui could hijack a plane by himself, did you?

9 A. No.

10 Q. He needed people to help him, didn't he?

11 A. Yes.

12 Q. Even the 747, as simple as you told the jury, he still needed
13 people to help him hijack an airplane?

14 A. Correct.

15 Q. Because it was his plan, obviously from his training, you
16 believed, to fly the aircraft, right?

17 A. Yes, sir.

18 Q. And you never found anyone in your investigation that was
19 going to help Mr. Moussaoui take control of an aircraft or
20 anything else and fly it, did you?

21 A. No, sir.

22 Q. Okay. Why don't you read the, the next paragraph, please.

23 A. "Pursuant to MIOG" -- which, that's an acronym which stands
24 for Manual of Investigative and Operational Guidelines -- "Section
25 265-3, investigative policy and procedures, Minneapolis will open

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1125

1 an investigation under the 265 (criminal) classification, as
2 investigation under captioned pending 199 matter has developed
3 information indicating a terrorist or terrorist group is presently
4 engaged in the specific criminal acts described above."

5 Q. Now, between August 18 and 2001, did anyone from Washington
6 call you and ask you what terror or terrorist group you were
7 talking about there?

8 A. No, sir.

9 Q. Didn't ask you what your suspicions were or anything else?

10 A. No.

11 Q. Okay. Read the next paragraph if you would, please.

12 A. "Minneapolis requests that FBI headquarters Counterterrorism
13 Division, International Terrorism Operation Section, Iran Unit,
14 expeditiously discusses this matter with the Office of
15 Intelligence Policy Review at DOJ and secure authorization from
16 Minneapolis to contact the United States Attorney's Office in the
17 District of Minnesota pursuant to determining the full merit for
18 criminal prosecution and obtaining search warrants for Moussaoui's
19 effects, vehicles, and residence and subpoenas for his financial
20 and telephone toll records. Minneapolis wishes to emphasize the
21 urgency of this matter in reminding recipients that it is as yet
22 unknown how far advanced the plan is or how many as yet
23 unidentified coconspirators exist. The letterhead memorandum
24 enclosed for the Iran Unit is provided to facilitate this
25 process."

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1126

1 Q. And you didn't get authority to go to the U.S. Attorney's
2 Office, did you?

3 A. No, sir.

4 Q. In fact, you were specifically told three days later by Agent
5 Frasca that you were not going to get a warrant, didn't you?

6 A. Yes, sir, that I was not going to get a criminal search
7 warrant, yes, sir.

8 Q. That was, that was very specific to him, right?

9 A. His, his exact direction was that if we were to go the
10 criminal route and we were to fail in that endeavor, that it would
11 be difficult to go the FISA route later. And so his
12 recommendation and, in fact, his direction was going to be that we
13 not go to the U.S. Attorney's Office. He then told us he was not
14 going to go forward to the Office of Intelligence Policy Review.

15 Q. No matter what you told him in the next, the ensuing time
16 between August 18th and 2001, no matter what you sent to him, no
17 matter what your investigation uncovered, he refused to budge,
18 didn't he?

19 A. Oh, no, sir. He didn't say that.

20 Q. No, no, I'm asking you as a matter of fact, Agent, in this
21 conversation, he told you -- and he read this, didn't he?

22 A. This communication?

23 Q. Yes.

24 A. I don't know.

25 Q. You never had any specific conversations with him about the,

1 what you said that you had reason to believe was happening in this
2 communication?

3 A. I don't know if he read this communication. I certainly
4 conveyed the substance of it to him. I can't testify as to
5 whether Unit Chief Frasca read this or not.

6 Q. And what is the -- tell the jury what the unit chief is.

7 A. He's the person who is in charge of the radical -- well, in
8 this case, the Radical Fundamentalist Unit at headquarters.
9 They're the ones, as I testified earlier, who oversee all
10 investigations of Sunni Muslim extremists in the FBI.

11 Q. Okay. And you sent this to him expecting him to read it,
12 correct?

13 A. I sent this to the Iran Unit. They walked it over to his
14 unit. I don't know whether he read it or not. I didn't have an
15 expectation one way or the other. I knew that the supervisor
16 beneath him, Supervisory Special Agent Mike Maltbie, had received
17 it, and I certainly expected him to read it.

18 Q. So as to the Unit Chief Frasca, you never had a conversation
19 with him where he discussed with you why you believe this, what
20 your investigation uncovered, or anything else?

21 A. I did, yes, sir. I did absolutely have a conversation to
22 that effect.

23 Q. And in that conversation, he told you you were not to try to
24 get a search warrant, a criminal search warrant, right?

25 A. He said on August 21, that on the basis of the information

1 we've developed thus far, that he is not going to go forward to
2 the Office of Intelligence Policy Review in order to allow me to
3 get a criminal search warrant.

4 Q. Right. And you've previously stated that the only negative
5 implications of doing both at the same time existed in Agent
6 Frasca's head, right?

7 A. Yes, sir.

8 Q. All right. And you've accused him of criminal negligence in
9 this matter, haven't you?

10 A. I accused the people at FBI headquarters in general, yes,
11 sir.

12 Q. Of criminal negligence?

13 A. Yes, sir.

14 Q. And you thought they were doing all this -- you, you've said
15 that the reason that nobody walked your request any farther on,
16 because they were trying to protect their careers, right?

17 A. Yes, sir, that's one of the reasons.

18 Q. Right. And the people in headquarters, you've said, took a
19 calculated risk to ignore what you had given them at the risk of
20 3,000 lives, correct?

21 A. Not to ignore, but certainly not to advance, what the
22 information being developed by the Minneapolis JTTF, yes, sir.

23 Q. But you have said it was a calculated risk on their part, and
24 the wager was a national tragedy, right?

25 A. I said that it was a calculated risk on their part, yes, sir.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1129

1 Q. In order to protect their own careers, right?

2 A. Yes, sir.

3 Q. And you said that you didn't have any choice once Frasca told
4 you that you couldn't get a warrant, you were out of options,
5 right? Because he was in charge. You couldn't do anything else,
6 right?

7 A. At my level? No, sir, I could not do anything else. I had
8 other options. I could not further advance the criminal search
9 warrant path, but Frasca didn't just shut it down with -- while
10 providing no options. In fact, he provided one that was very
11 viable at least at the time, which was to go the FISA route.

12 Q. Well, even you've said, haven't you, that the FISA option
13 wasn't any good because there would have been restrictions in
14 using whatever you got anyway, right?

15 A. At least to prosecute Mr. Moussaoui downstream, but in terms
16 of thwarting the plot, no.

17 Q. Right. But they also criminally obstructed your FISA
18 application, too, didn't they?

19 A. Criminally obstructed -- they obstructed it, yes, sir.

20 Q. Well, you've used the word "criminal negligence" to describe
21 Mr. Maltbie's efforts to try to get you a FISA, too, haven't you?

22 A. I've used "criminal negligence" in a general term to,
23 referring to people in FBI headquarters.

24 Q. And Mr. Maltbie was promoted after 9/11, wasn't he?

25 A. He received the supervisor's spot of a Joint Terrorism Task

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1130

1 Force after 9/11.

2 Q. After, after you talked to Mr. Frasca on the 21st, you never
3 once again raised the issue of getting a criminal search warrant,
4 did you?

5 A. No, sir, not with Unit Chief Frasca. To say that, that the
6 issue was never again raised is inaccurate. We were always
7 mindful of the need throughout the continuance of that
8 investigation to collect both criminal evidence and intelligence.

9 We were pursuing both, both pipelines very aggressively.
10 Did we reraise the issue with the Radical Fundamentalist Unit?
11 No, but it was being pursued constantly.

12 Q. You never once went back to the U.S. Attorney's Office in
13 Minneapolis and asked for one of them to prepare a search warrant,
14 correct?

15 A. Yes, sir, that's correct.

16 Q. And you never went back to Mr. Frasca after the 21st and
17 said, "I've got new information. Do you want to hear my new
18 information? Let's try again"? You never did that, either, did
19 you?

20 A. Yes, sir, that's correct.

21 Q. Go to page 24 of this. We're almost at the end of this
22 document.

23 Read the last paragraph, if you would, please, Agent.

24 A. "Minneapolis believes that the preponderance of information
25 to be gained from future investigation will concern the specific

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1131

1 criminal acts set forth above. However, as there is reason to
2 believe that Moussaoui and al-Attas are part of a larger
3 international radical fundamentalist group, captioned pending 199
4 matter will remain open and a classified sub-file to the 265
5 matter will be opened to serve as a repository for classified
6 information developed."

7 That's responsive to what I just said, the pursuit of
8 both intelligence and criminal investigations going on.

9 Q. Right. But you were shut down on the criminal investigation.

10 A. I was shut down on the ability to contact the U.S. Attorney's
11 Office, and so that convinced the Minneapolis JTTF not to open a
12 parallel criminal investigation at the time.

13 Q. You never opened a parallel criminal investigation, as you
14 wanted in this communication, sir, because you were told not to by
15 the people in Washington?

16 A. No, sir, that's not correct. That's not correct. We did
17 open a 265, a parallel 265 on September 11. Headquarters did not
18 direct us not to open the criminal investigation. What
19 headquarters said is they were not going to go forward to get us
20 authority to contact the U.S. Attorney's Office.

21 We didn't need their permission to open a parallel
22 criminal investigation. However, without authority to go to the
23 United States Attorney's Office, the criminal case is really of no
24 value.

25 Q. Okay. And you finally got a criminal warrant on September

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1132

1 11, right?

2 A. Yes, sir, that's correct.

3 Q. But that was after a couple of planes crashed, right?

4 A. Yes, sir.

5 Q. And you told the -- you previously testified that, that Agent
6 Frasca didn't, didn't believe there was probable cause after the
7 two planes hit the World Trade Center and told your office it was
8 just a coincidence, right?

9 A. Sir, what I said was I had heard from another person, from
10 Assistant Special Agent-in-Charge Briese, that that's what
11 Mr. Frasca had said, yes, sir.

12 Q. And you've told the Inspector General that nothing short of
13 the disaster which befell the United States on September 11, 2001,
14 would have caused the Radical Fundamentalist Unit to give us the
15 authority we so desperately sought because we in Minneapolis
16 witnessed this ourselves?

17 A. Yes, sir. At the time I wrote that, I believed it.

18 Q. Okay. And that was a submission to the United States
19 government, wasn't it? Right? That's something you told the
20 United States government in an investigation, correct?

21 A. Yes, sir. As I said, at the time I submitted that, I
22 believed it.

23 Q. And you were upset that someone in the Inspector General's
24 Office thought that you had just accepted the advice of the
25 Radical Fundamentalist Unit and not opened the investigation

1 anyway, correct?

2 A. Yes, sir.

3 Q. And you told them that the use of the word "advice" is

4 inaccurate. "The FBI does not dispense advice to field offices.

5 And this characterization assigned there, including Special Mike

6 Rolince, does not portray what was then occurring. This ignores

7 the fact that the Radical Fundamentalist Unit and the National

8 Security Law Unit were the first and second steps in the process

9 of obtaining a FISA or authority to go to the U.S. Attorney's

10 Office on a criminal case, and as stated above, Minneapolis wasn't

11 relying on the Fundamentalist Unit for advice. We needed them to

12 take tangible steps in a prompt and aggressive manner, something

13 they were unwilling to do." Right?

14 A. Yes, sir.

15 Q. Those are your exact words, aren't they?

16 A. They are.

17 THE COURT: Mr. MacMahon, I'm not sure the jury has yet

18 had explained for it what you mean by an Inspector General's

19 investigation.

20 MR. MAC MAHON: Would you like for me to pull it out of

21 the witness, Your Honor?

22 THE COURT: Yeah.

23 BY MR. MAC MAHON:

24 Q. Tell the jury what the Office of the Inspector General is.

25 A. The Office of the Inspector General is an organization within

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1134

1 the Department of Justice who is tasked with investigating
2 Department of Justice employees as to any misconduct or wrongdoing
3 in the performance of their duties.

4 Q. Okay. And after September -- can I lead a little bit, Your
5 Honor? Excuse me?

6 THE COURT: It depends on whether you draw an objection.

7 MR. MAC MAHON: Well, I guess I'm on cross anyway so --

8 THE COURT: Yeah, that's right.

9 BY MR. MAC MAHON:

10 Q. But the -- after 9/11, the Office of the Inspector General
11 launched an investigation to determine the performance of certain
12 officials in the FBI, right?

13 A. Yes, sir, that's correct.

14 Q. And there was a report issued, correct?

15 A. There was.

16 Q. All right. And you testified in that investigation?

17 A. I did.

18 Q. And then after the report came out, you, you generated a
19 document that has your comments in it about that investigation and
20 its conclusions, right?

21 A. The comments were actually solicited by FBI headquarters,
22 yes, sir.

23 Q. Okay. But those are your -- what I was reading from are your
24 comments, correct?

25 A. They were.

1 Q. So when we talked about the IG, that's -- so the jury can
2 understand, when you say you told the IG or you testified, we're
3 talking about statements made by you under oath in the course of
4 that investigation, correct?

5 A. What you were reading were not statements made by me under
6 oath, no, sir.

7 Q. But you did give statements under oath?

8 A. Yes, sir. What you were reading were my administrative
9 comments in response -- they were internal to the FBI, and they
10 were not under oath.

11 Q. Do you want to take them back?

12 A. No, sir.

13 Q. That also wasn't your first experience with Mike Maltbie, was
14 it?

15 A. No, sir.

16 Q. And you knew as soon as your FISA application for Moussaoui
17 was assigned to Mike Maltbie, it was going nowhere, right?

18 A. No, sir. Mr. Maltbie had actually advanced two previous
19 requests in other cases. I knew it would be a difficult sell to
20 Mr. Maltbie, but to say that it was going nowhere is not accurate.

21 Q. Okay. And who is Mike Maltbie?

22 A. He's the supervisory special agent in the Radical
23 Fundamentalist Unit, who is assigned oversight responsibility for
24 the Minneapolis Division.

25 Q. You're not going to tell this jury that you thought

1 Mr. Maltbie was helpful to you in your obligations, are you?

2 A. No, sir. I'm also not going to say, sir, that, in fact, I
3 knew it was absolutely going nowhere beyond a shadow of a doubt.

4 Q. Well, you were very concerned, weren't you?

5 A. Yes, sir.

6 Q. In fact, you told the IG that Mike Maltbie's actions
7 constitute misconduct of the most serious kind, right?

8 A. Yes, sir.

9 Q. You say that he thwarted your attempts to access Moussaoui's
10 belongings and meaningfully advance the investigation, right?

11 A. Yes, sir.

12 Q. And you told the IG that Maltbie's actions denied the FBI
13 what has been termed a significant opportunity to stop the 9/11
14 attacks, right?

15 A. Actually, I think you're reading from my submission to the
16 FBI, to the internal FBI memo, to correct you on that first, and
17 second, yes, sir, I did, "an opportunity to stop 9/11" were my
18 exact words.

19 Q. And you said that you had been dealing with Special Agent
20 Maltbie since 2000 and had seen firsthand how obstructionist he
21 could be when it came to FISA matters. Those are your words,
22 right?

23 A. Yes, sir.

24 Q. "My first such encounter while working with Mr. Maltbie was a
25 FISA-covered intelligence investigation on a subject believed to

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1137

1 be going to Afghanistan to train terrorists," right?

2 A. Yes, sir, that's correct.

3 Q. Okay. And when did that happen?

4 A. Beginning in late 1999.

5 Q. And you were pretty new to the -- a new agent at that time,
6 right?

7 A. Yes, sir.

8 Q. You had a very bad experience with Mr. Maltbie with that
9 application, right?

10 A. I had a difficult experience, but one that was ultimately
11 forwarded by him and eventuallily signed by a FISA court judge.

12 Q. Over what period of time, Agent? Nine months?

13 A. Yes, sir.

14 Q. "Simply" -- these are your words -- "Simply obtaining the
15 FISA in this case has been an ordeal, as Maltbie raised a number
16 of objections and raised questions over a period of several
17 months, finally bowing to the pressure of the facts of the case,
18 he went forward with our request, which was approved," right?

19 A. Yes, sir.

20 Q. And tell the jury what you can about what that case involved.

21 A. As you said, sir, as you read, it involved a person traveling
22 from Minnesota overseas to train terrorists.

23 Q. Okay. And what was going on in that person's family that
24 concerned you?

25 A. That person had a relative who was attempting to enlist in

1 the Minnesota Army National Guard.

2 Q. And that concerned you, didn't it?

3 A. It did, yes, sir.

4 Q. Okay. And that information had been obtained somehow by a
5 FISA through -- it was intelligence information?

6 A. Yes, sir, through a technique authorized under FISA.

7 Q. Right. And you had wanted to do what with that information?

8 A. I wanted to share it with the military.

9 Q. And in order to do that, you had to go, it turned out,
10 through Mr. Maltbie, right?

11 A. Yes, sir, beginning with Mr. Maltbie all the way up through
12 the, the chain, the appropriate chain.

13 Q. And one of the reasons even in 2000 you were concerned was
14 because this person, if he joined the National Guard, would have
15 access to the airports in Minneapolis, St. Paul, right?

16 A. Yes, sir.

17 Q. You were concerned about aviation security even then, right?

18 A. Yes, sir.

19 Q. And you immediately called -- when you learned that this
20 person was the relative of a Taliban terrorist trainer who was
21 planning to join the United States military, you immediately
22 called Special Agent Maltbie to obtain permission, right?

23 A. To obtain permission?

24 Q. To disseminate this information to the appropriate agencies.

25 A. Yes, sir.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1139

1 Q. Okay. And when you advised him of that, Special Agent
2 Maltbie became extremely agitated, right?

3 A. Yes, sir.

4 Q. And you wrote that he stated that there was no reason to
5 inform the military of this development?

6 A. Yes, sir.

7 Q. He went on to state that this was just the kind of thing
8 which would get FBI employees in trouble because of the
9 sensitivity of FISA information, right?

10 A. Yes, sir, because of -- Mr. Maltbie's view was that FISA
11 information needed to be safeguarded because of some difficulty
12 the FBI had had with the FISA court.

13 Q. And to protect his career, right?

14 A. Yes, sir.

15 Q. When I -- he went on to state -- excuse me, "When I insisted
16 that the Army needed to receive this information, Special Agent
17 Maltbie got angry." Those are your words, right?

18 A. Yes, sir.

19 Q. He advised me that other supervisors at FBI headquarters had
20 recently gotten into trouble over FISA issues in the past, and he
21 was not about to let that happen to him.

22 That's what he told you, didn't he?

23 A. That's correct.

24 Q. "Maltbie advised me that he was trying to keep the two of us
25 from receiving a" -- and I quote -- "receiving a rectal with a

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1140

1 microscope", and his refusal to provide me what I considered to be
2 vital intelligence to the military was being done in the interest
3 of helping my career.

4 MR. NOVAK: Judge, we object to this. We're talking
5 about another case. He's not denying at all his view of
6 Mr. Maltbie's conduct in relation to the case.

7 THE COURT: This line of questioning is clearly relevant
8 to the defense's theory of the case. The objection is overruled.

9 BY MR. MAC MAHON:

10 Q. Those are your words, aren't they, sir?

11 A. Could you repeat the question?

12 Q. You told the FBI that Special Agent Maltbie advised me that
13 he was trying to keep the two of us from receiving a "rectal with
14 a microscope" and that his refusal to allow me to provide what I
15 considered to be vital intelligence to the military was being done
16 in the interest of helping my career.

17 A. Yes, sir.

18 Q. Those are your exact words, right?

19 A. Yes, sir.

20 Q. Then Maltbie went on to explain that a supervisor at FBI
21 headquarters had recently been subjected to scrutiny and
22 sanctioned as a result of his mishandling of a FISA matter.

23 A. Yes, sir.

24 Q. You remember these conversations very well, don't you?

25 A. I do.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1141

1 Q. "Agent Maltbie indicated to me that his caution" --
2 quote-unquote, caution -- "in issues relating to FISA stem from a
3 desire to avoid a similar fate and to preserve the integrity of
4 his advancement potential in the FBI, and he also attempted to
5 reassure me that my issue was not serious." Right?

6 A. Yes, sir.

7 Q. That's exactly what he told you about the Moussaoui FISA
8 request, too, didn't he?

9 A. No, sir. That's, that's not accurate.

10 Q. He told you you were getting spun up, didn't he?

11 A. Yes, sir. And he also told me that the information that we'd
12 surfaced on Mr. Moussaoui in that case had not met the foreign
13 power standard. He never told me he didn't consider it serious.
14 He told me that it didn't meet the standard under FISA by which
15 we're required to connect Mr. Moussaoui to a foreign power.

16 Q. Okay. But you knew from your experience with Mr. Maltbie
17 this was going to be a serious problem, didn't you?

18 A. That there was going to be a high standard, yes, sir.

19 Q. Yes. Protecting somebody's career, is that a high standard
20 on issuing a FISA? Is that what you're saying, sir?

21 A. No, sir. What I'm saying is that Mr. Maltbie would have
22 required a high standard of information in order to go forward.

23 Q. As of August 18, 2001, how many FISA requests to your
24 knowledge had ever been turned down?

25 A. I don't know, sir.

1 Q. A few?

2 A. I don't know.

3 Q. What did you learn in your training?

4 A. We didn't get the track record of the FBI with regard to FISA
5 applications.

6 Q. Out of thousands, Agent, you know that very few, in the hand
7 of a handful have ever been turned down, right?

8 A. Yes, sir. I know that the number is small.

9 Q. And no one ever even submitted your application under any
10 circumstances?

11 A. Submitted it to the FISA court?

12 Q. Yes.

13 A. Yes, sir, that's correct.

14 Q. It just died on Mr. Maltbie's desk?

15 A. No, sir, that's not accurate.

16 Q. Died on somebody else's desk?

17 A. Mr. Maltbie forwarded it to the National Security Law Unit at
18 FBI headquarters.

19 Q. So you -- and going back to your IG response, "When I
20 persisted, Special Agent Maltbie again grew angry and advised me
21 that he would get a ruling from the National Security Law Unit on
22 the issue."

23 A. Now we're speaking of the other case, correct?

24 Q. We're back to the Taliban terrorist trainer planning to join
25 the United States military in the year 2000.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1143

1 A. If I could correct you, that's a relative of the Taliban
2 terrorist trainer.

3 Q. Thank you, sir.

4 And you said, to him -- to you, "It seemed self-evident,
5 that the fact that a relative of a Taliban terrorist trainer was
6 attempting to join a part of the U.S. military constituted foreign
7 intelligence, so I was confident I would receive authority to
8 share this intelligence." Those are your words, right?

9 A. Yes, sir.

10 Q. You were therefore -- it was therefore with surprise and
11 alarm a few days later that I received an e-mail from Agent
12 Maltbie informing, informing you that NSLU, National Security Law
13 Unit, attorneys had ruled that this did not constitute foreign
14 intelligence and advised me that you were not then allowed to
15 disseminate the information.

16 A. Yes, sir.

17 Q. That's what actually happened, right?

18 A. Yes, sir.

19 Q. And how much time period are we talking about this?

20 A. A matter of a week or ten days. I'm not sure exactly how
21 long the delay was. It was reasonably short.

22 Q. And you say that Maltbie told you that he feared -- made it
23 be known that he feared that any interaction with the FISA court
24 could be damaging to his reputation and his career, right?

25 A. Any, any negative interaction with the FISA court.

1 Q. Well, you don't use the word "negative" in your submission?

2 A. Well, that's what I meant.

3 Q. He was clear that he would only go to the FISA court when
4 absolutely necessary and he himself would be the final judge of
5 when it became absolutely necessary, right?

6 A. Yes, sir.

7 Q. That's what he told you, didn't he?

8 A. Yes, sir.

9 Q. "Therefore, when the Moussaoui matter was later handed to
10 Special Agent Maltbie, I realized that we would face significant
11 obstacles in advancing the investigation. What I did not expect
12 is that when I asked for authority to go to the criminal route, in
13 part because I had no confidence in him or the other headquarters
14 supervisors, that he would deny this as well, with the assistance
15 of Agent Frasca."

16 Those are your words, too, aren't they?

17 A. Yes, sir.

18 Q. Go back to Exhibit 472, if you would, please, the last --
19 page 25.

20 All right, if you could, Agent, could you tell the jury
21 what these leads are? You don't have to read them. Just give
22 them an idea of what you're trying to do here as an agent.

23 A. The lead portion of the electronic communication comes at the
24 back, and it's where we request other offices in the FBI to do
25 work for us, to take investigative action of some kind.

1 Q. Okay. So you're trying to -- and again, this immediate --
2 this is immediate, right?

3 A. Yes, sir.

4 Q. Okay. And so you're asking these various offices to step up
5 and help you out?

6 A. Cover it within the first 24 hours if possible.

7 Q. And on the next page -- if you could, please, Ms. Bishop.

8 THE COURT: Hold on one second. You used the
9 term "letterhead memorandum."

10 THE WITNESS: Yes, Your Honor.

11 THE COURT: You explained what an EC, electronic
12 communication, is. Could you explain what an LHM is and the
13 difference between the two?

14 THE WITNESS: An EC, or electronic communication, is an
15 internal FBI document. It's intended to go from one office to
16 another, from one office to headquarters or vice versa, and it
17 contains, as you can see from my electronic communication, a lot
18 of information that's typically appropriate only within the FBI:
19 Investigative conclusions, opinions, investigative actions, things
20 of that nature.

21 A letterhead memorandum, or LHM, is a document that we
22 produced that's intended to go outside the FBI, most commonly to
23 another agency within the federal government or friendly foreign
24 government.

25 THE COURT: Thank you.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1146

1 MR. MAC MAHON: Thank you, Your Honor.

2 Q. Now, the, the other page we're looking at here, this is
3 something you wanted internally for the people in Oklahoma to look
4 into, correct?

5 A. Yes, sir.

6 MR. MAC MAHON: Okay. I moved the admission of that
7 exhibit, didn't I, Your Honor?

8 THE COURT: Yes, that's in.

9 MR. MAC MAHON: Thank you.

10 Q. Now, you, you told the IG that from the beginning of this --
11 after you sent the document we just read, that Mr. Maltbie had a
12 predetermined outcome in this case, right?

13 A. After the document was provided to Mr. Maltbie by Supervisory
14 Special Agent Manarang, he took a number -- a day or two to review
15 it, but yes, sir, then I got the feeling that he had a
16 predetermined outcome for the case.

17 Q. All right. You told the inspector general that at the
18 substantive unit, Agent Frasca, possibly taking his clues -- cues,
19 excuse me, from his subordinate, Special Agent Maltbie, clearly
20 had a predetermined outcome in mind when dealing with the
21 Minneapolis field office, and this did not include FISA or
22 criminal search warrants for Moussaoui's belongings.

23 Those are your words, right?

24 A. Yes, sir. They had a third option in mind.

25 Q. And having decided there was no urgency and no threat, he

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1147

1 slowed or denied the use of every tool at division's disposal for
2 further -- furthering our investigation, only relenting on
3 September 10, 2001, obviously too late in allowing us to exercise
4 our distant third choice option: Travel to France so that their
5 service could search his belongings.

6 A. Correct.

7 Q. Those are your words, right?

8 A. Yes, sir.

9 Q. The only option they eventually gave you was for you to
10 actually get on the plane with Mr. Moussaoui and fly back to
11 France, right?

12 A. It's the option that eventually we were pushed to, yes, sir.

13 Q. All right. And it was not the one that you wanted, right?

14 A. It was not, no, sir.

15 Q. You tried to move heaven and earth to get a search warrant to
16 get into this man's belongings, didn't you?

17 A. Yes, sir.

18 Q. And you were obstructed in Washington at every turn; isn't
19 that correct?

20 A. In Washington? I think it -- the statement "in Washington"
21 is inaccurate.

22 Q. Well, I will be more specific. From the people who you
23 needed help from, your supervisors in Washington, you were
24 obstructed in every way possible?

25 A. From a particular individual in the Radical Fundamentalist

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1148

1 Unit, in RFU, yes, sir, I was obstructed.

2 Q. All right, let's look at Exhibit 49, if we could, please.

3 49B?

4 THE COURT: It's 49B is the one I have.

5 MR. MAC MAHON: 49B, I'm sorry, Your Honor.

6 THE COURT: Is there an objection to 49B?

7 MR. NOVAK: If we may just have a second?

8 THE COURT: Yes, sir.

9 MR. NOVAK: No objection, Judge.

10 THE COURT: All right, it's in.

11 (Defendant's Exhibit No. 49B was received in evidence.)

12 BY MR. MAC MAHON:

13 Q. Okay. Tell the jury what this is, if you would, Agent.

14 A. This is an e-mail internal from me to other members of my
15 squad who were assisting with the investigation, requesting
16 that -- or soliciting an opinion and seeing if anyone had a
17 contact with the Behavioral, Behavioral Assessment Unit.

18 Q. And that's, that's who the -- I won't circle "quacks" for
19 you, Agent. Islamic martyr?

20 A. Yes, sir.

21 Q. Why were you looking for a behavioral assessment of a profile
22 of an Islamic martyr?

23 A. Because Mr. al-Attas had told us that day or the day before
24 that Mr. Moussaoui approved of martyrs, and so I wanted to
25 determine if Mr. Moussaoui himself fit that profile.

1 Q. Did you ever hear back from these people?

2 A. From the people on my squad? I did. No one had a current
3 contact, so I contacted the person I referred to.

4 Q. Okay. And did you hear back from the -- is that NFD,
5 behavioral assessments?

6 A. Yes, sir.

7 Q. Okay. And did you ever hear back from them before September
8 11?

9 A. I did. I had an ongoing dialogue with the person -- you see
10 here, I refer to the field guy in Tampa?

11 Q. Sure.

12 A. I had an ongoing dialogue with him.

13 Q. All right. And you learned from him that Moussaoui did, in
14 fact, fit the profile, didn't you?

15 A. I learned that there were reasons for concern.

16 Q. Right.

17 A. It's difficult for them to make an assessment just based on
18 what I tell them, but certainly that person pointed out some very
19 important points to me, but as far as him going -- being -- having
20 the capability based on my second-party information, for him to be
21 able to say definitively that Mr. Moussaoui met the martyr
22 threshold was impossible. He couldn't do that.

23 Q. But he didn't discourage you from your --

24 A. No, sir. He agreed with me, as a field agent, he agreed with
25 me that we had something very significant that needed to be

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1150

1 followed up. That's the tendency of all FBI field agents is to
2 gather as much information as possible. He just encouraged what's
3 for all of us a natural tendency.

4 Q. Okay. Go to Exhibit 668, if you would, please.

5 Did I move the last one, Your Honor?

6 THE COURT: 49B is in, yes, sir.

7 Does the government have an objection to 688?

8 MR. NOVAK: No, Your Honor.

9 THE COURT: All right, it's in.

10 (Defendant's Exhibit No. 688 was received in evidence.)

11 MR. MAC MAHON: Thank you.

12 Q. Agent Samit, could you tell us what Exhibit 688 is, please?

13 A. This is the letterhead memorandum, one of the three
14 letterhead memoranda that were attached to that opening
15 communication. This one in particular, as you can see, is the one
16 intended to go to the Department of Justice to get us authority to
17 go to the United States Attorney's Office.

18 Q. Okay. So this would have been an attachment to the document
19 we looked at before?

20 A. It was one of three enclosures, yes, sir, one of three
21 enclosed LHMs.

22 Q. Do you know where this would have been circulated to at
23 Justice?

24 A. My request was for it to go to the Office of Intelligence
25 Policy Review. Those are the people that needed to give me the

1 authority to go to the U.S. Attorney's Office.

2 Q. Okay. And who were the people at that office that you knew
3 were holding the yes-or-no answer to your question?

4 A. I didn't, I didn't have any contact with those people. The
5 people at FBI headquarters were interface with them.

6 Q. Go to page 5 of this document, if you would, please.

7 All right. You see the information in the bottom two
8 paragraphs there?

9 A. Yes, sir.

10 Q. Now, your intention here was to -- this is -- why did you
11 have to include this information in a separate document as opposed
12 to the communication you had already done?

13 A. Because as I, I explained, the electronic communication is an
14 internal FBI document. What I wanted the FBI to do in that lead
15 section as set forth there was go to the Office of Intelligence
16 Policy Review, Department of Justice, outside the FBI. So in a
17 lot of cases, what you'll see is the letterhead memoranda that are
18 attached to electronic communications are very duplicative,
19 because they need to go outside the agency.

20 Q. So who did this -- so is the Office of Intelligence Policy --
21 is that what it's called, OIPR?

22 A. Yes, sir.

23 Q. That's not part of the FBI?

24 A. Correct. That's part of Department of Justice.

25 Q. And how many lawyers are there, to your knowledge?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1152

1 A. I don't know, sir.

2 Q. Do you know how many lawyers of the Department of Justice
3 would have been forwarded this document?

4 A. I don't know, sir.

5 Q. And this document contains the same language about conspiracy
6 of acts of terrorism transcending national boundaries and
7 destruction of aircraft facilities, right?

8 A. Yes, sir.

9 Q. Same cites to Title 18, 2332, and 32 as well, right?

10 A. Correct.

11 Q. And you repeat your, your belief that Moussaoui's involved in
12 a plan to involve the performance of violence or incapacitation of
13 individuals on aircraft in the special aircraft jurisdiction of
14 the United States for the purpose of seizing control of the
15 aircraft for his own ends, right?

16 A. Yes, sir.

17 Q. And that was important, you wanted, you wanted the people at
18 Department of Justice to know that that was what your
19 investigation had uncovered at that time?

20 A. That's correct.

21 Q. Okay. And no one from the Department of Justice ever called
22 you about this at all, did they?

23 A. No, sir, not before 9/11.

24 MR. MAC MAHON: Did I move the admission of --

25 THE COURT: 688 is in, yes.

1 MR. MAC MAHON: 692, please.

2 THE COURT: Any objection to 692?

3 MR. NOVAK: No objection.

4 THE COURT: All right, it's in.

5 (Defendant's Exhibit No. 692 was received in evidence.)

6 BY MR. MAC MAHON:

7 Q. What's Exhibit 692?

8 A. This is the second of the three letterhead memoranda that was
9 enclosed with that electronic communication, this one, I believe,
10 going to our office in England for forwarding to the government of
11 the United Kingdom.

12 MR. MAC MAHON: Okay. Thank you.

13 Your Honor, I'm hearing that there's a declassified
14 version of this. This may not be the last one, so I won't put it
15 up on the screen, and we'll just deal with that at the break.

16 Mr. Van Longhuyzen is -- I can hear him back there.

17 THE COURT: Well, the one that's in my book indicates no
18 redaction. Does that mean it should not be in my book in this
19 format? All right. We need to make sure we've checked into that.

20 MR. MAC MAHON: I'm sorry about that, Judge. There's so
21 many of them, we made a mistake.

22 Q. Don't read any more from this document, but this is the LHM
23 to the office in London, right?

24 A. Just if you could give me one second to review it.

25 MR. MAC MAHON: Your Honor, we have a declassified one

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1154

1 we can put up on the screen with the Court's indulgence.

2 THE COURT: Just make sure it's the one they want you

3 to --

4 BY MR. MAC MAHON:

5 Q. I'll make it easier, Agent. Sorry about that. Have you seen
6 this before?

7 A. I have.

8 THE COURT: You need to substitute.

9 MR. MAC MAHON: We will, Your Honor. We'll do it at
10 lunchtime.

11 THE WITNESS: I have seen it before.

12 BY MR. MAC MAHON:

13 Q. Okay. And the nature -- tell the jury about the relation
14 between what you do as an agent when you want to get some
15 information from the people in London, your ALAT is the word we
16 use. Tell the jury that, if you would.

17 A. Correct. In the lead section of the electronic
18 communication, our offices all over the world are treated
19 essentially similarly. In this case, I sent this letterhead
20 memorandum to our office in London, with the request that he go to
21 the British government.

22 Q. Okay. And you can't, you can't call the ALAT yourself,
23 right? You have to go through Justice Department to do that?

24 A. No, no, I can contact the ALAT. He's an FBI employee. In
25 fact, they're FBI agents.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1155

1 Q. Okay. So why do you use this method to go to them?

2 A. Well, I use both methods, both e-mail and this. This method
3 is the formal, formalized request. In order for him to make a
4 formalized request of the foreign government, he needs a
5 formalized request from me, a formal request from me.

6 Q. So this is the formal request?

7 A. It is.

8 Q. Okay. And you wanted the ALAT in London to know you had an
9 international terrorism investigation?

10 A. Yes, sir.

11 Q. And you related a lot of the information in this document
12 about why you were suspicious about Moussaoui, that Moussaoui
13 thought it was acceptable to kill civilians and that other
14 information as well, correct?

15 A. I'd have to review it to be sure, but yes, that would
16 certainly have been the kind of information that would have been
17 provided, absolutely.

18 Q. All right. But you didn't include in this LHM the language
19 about Moussaoui trying to take control of an aircraft, disable the
20 crew, and do -- for his own ends, did you?

21 A. I'd have to review it.

22 Q. Take your time, Agent.

23 A. Okay. I did not.

24 MR. MAC MAHON: If you could pull up page 7?

25 Q. Page 7 is -- no, that's -- excuse me, Your Honor.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1156

1 You told them that Moussaoui was an Islamic
2 fundamentalist preparing for some future act in furtherance of
3 radical fundamentalist goals, correct?

4 A. Yes, sir.

5 Q. And that you believed he was conspiring to commit a terrorist
6 act, right?

7 A. I did.

8 Q. And you didn't hear anything back from London until after
9 9/11, right?

10 A. That is correct.

11 Q. And that lead was sent immediate, wasn't it?

12 A. It was. And it's important to note that our FBI
13 representative in London handled it in our fashion, handled it
14 immediately. The response, the delay in response came from the
15 people he was in contact with, not internal to his office.

16 Q. The British authorities were the -- didn't get the work done
17 in time, right?

18 A. I don't -- the British authorities didn't respond.

19 Q. It didn't get done, right?

20 A. The response didn't happen, yes, sir.

21 Q. Thank you.

22 Exhibit 741, please.

23 THE COURT: Any objection to 741?

24 MR. NOVAK: No, Your Honor.

25 THE COURT: All right, it's in.

1 (Defendant's Exhibit No. 741 was received in evidence.)

2 BY MR. MAC MAHON:

3 Q. What's Exhibit 741 there, Agent Samit?

4 A. That is an e-mail from me to a variety of people, including
5 our, our person in London, with that electronic communication and
6 the letterhead memoranda that we just looked at, that I'm
7 e-mailing that to all the recipients. It's a way of making sure
8 they see it in the most timely fashion possible.

9 Q. You're trying to get everybody's attention at this time,
10 aren't you, Agent?

11 A. Yes, sir.

12 Q. Right. That's why you sent them an e-mail yourself. And in
13 that e-mail, you again list two of the charges that Moussaoui has
14 pled guilty to, correct?

15 A. Yes, sir.

16 Q. And who -- tell the, tell the jury, if you would, who these
17 people are on the "To" line?

18 A. G. Jones was my acting supervisor at the time, Joseph Hummell
19 was one of the ALATs in our London office, Joe Manarang was the
20 supervisor in the Iran Unit. And it's cut off, but I'm guessing
21 that Joseph might be Joseph Rivers.

22 Q. Joe Rivers from your office in Minneapolis?

23 A. Yes, sir.

24 Q. All right. 739, please.

25 THE COURT: Any objection?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1158

1 MR. NOVAK: No objection, Your Honor.

2 THE COURT: All right, it's in.

3 (Defendant's Exhibit No. 739 was received in evidence.)

4 BY MR. MAC MAHON:

5 Q. Tell the jury what that is, Agent.

6 A. This is the same type of e-mail being sent the next morning
7 to our legal attache's office in Paris.

8 Q. And they responded quickly, didn't they?

9 A. Yes, sir.

10 MR. MAC MAHON: Move -- I already moved it. I'm sorry,
11 Your Honor.

12 THE COURT: It's in.

13 BY MR. MAC MAHON:

14 Q. Exhibit 695, please.

15 THE COURT: Any objection, Mr. Novak?

16 MR. NOVAK: No objection, Your Honor.

17 THE COURT: All right, it's in.

18 (Defendant's Exhibit No. 695 was received in evidence.)

19 BY MR. MAC MAHON:

20 Q. Okay. What's that, Agent?

21 A. This is yet another e-mail to in this case Joe, the Joe there
22 is Joseph Manarang, asking them to take that letterhead memorandum
23 and get us permission from the Department of Justice to go to the
24 U.S. Attorney's Office.

25 Q. And you were concerned on August 20, 2001, about the fact

1 that al-Attas had been bailed out, correct?

2 A. Yes, sir.

3 Q. And why were you concerned about that?

4 A. As it says there, because he may be heading back to Oklahoma
5 City to destroy incriminating evidence.

6 Q. Did you ask the people in Oklahoma City to make sure that
7 that didn't happen?

8 A. I'm not sure how they could make sure that didn't happen.

9 Q. Did you ask them to tail him?

10 A. I asked them to conduct -- if you will recall from that EC, I
11 asked them to conduct as much investigation as they could to fully
12 identify him. "Fully identify" is an FBI brevity term for conduct
13 an investigation of the person. How they would go about doing
14 that, whether they would choose to do physical surveillance or
15 not, would be up to them.

16 Q. Okay. But you've written that they let you down, too,
17 haven't they?

18 A. I've written that on one point they didn't pursue it as
19 vigorously as I would have liked.

20 Q. And that had to do with this event, when al-Attas got back to
21 his apartment, correct?

22 A. Yes, sir, it did, but they were directed to do that, so it's
23 probably more accurate to say that the people who were responsible
24 for that were at headquarters.

25 Q. And nothing in your investigation ever revealed that Hussein

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1160

1 al-Attas was an al Qaeda member, did it?

2 A. No.

3 Q. Hussein al-Attas was somebody that Moussaoui had befriended
4 at the mosque and who drove him to Minneapolis, correct?

5 A. Yes, sir.

6 Q. And he pled guilty to and did time for giving you a false
7 statement, correct?

8 A. Yes, sir.

9 Q. How much time did he do?

10 A. I don't know, sir. He was prosecuted in another district.
11 I'm not familiar with the details of --

12 Q. But nothing in your investigation revealed that Hussein
13 al-Attas was a terrorist, right?

14 A. No, sir.

15 Q. But you did, you did learn on or about August 20 that he was
16 on the telephone at the jail talking about going on jihad, right?

17 A. Yes, sir. He was certainly preparing to embark on a
18 terrorist career at the time that he was arrested.

19 Q. It's because -- you learned that by listening to his
20 telephone call, right?

21 A. Yes, sir, and interviewing him.

22 Q. All right. But the phone call from the jail, where was he in
23 jail?

24 A. Carver County Jail.

25 Q. And all the telephone calls that the inmates make at that

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1161

1 jail are recorded, right?

2 A. Yes, sir.

3 Q. And you recorded his phone call and learned that he told
4 somebody in Oklahoma City -- someone asked him if he was going on
5 jihad?

6 A. Yes, sir, that's correct.

7 Q. All right.

8 A. In Norman, Oklahoma.

9 Q. And what did he say?

10 A. He said not to talk about that right now.

11 Q. All right. And that was, that was further confirming to you
12 that you had a pair of terrorists in your -- that you collared
13 here in Minnesota, didn't it?

14 A. Yes, sir.

15 Q. Okay. Now, did -- where was Moussaoui in this time frame?

16 A. He was in Sherburne County Jail.

17 Q. All the, all the calls from Sherburne County Jail recorded,
18 too?

19 A. Yes, sir.

20 Q. And Moussaoui didn't make any phone calls from the jail, did
21 he?

22 A. Not that we've ever been able to locate, no, sir.

23 Q. Well, all of them -- all of the calls from the jail in the
24 time frame for when Moussaoui is arrested until September 11 were
25 recorded, weren't they?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1162

1 A. Yes, sir.

2 Q. Calls into the jail and calls out of the jail?

3 A. Correct.

4 Q. Right. And he didn't make any phone calls?

5 A. Not that we've been able to detect, no, sir.

6 Q. Well, have you listened to all of them?

7 A. Yes, sir.

8 Q. Couldn't hear his voice on there?

9 A. Well, there were so many calls that it was spread out over a
10 number of agents in New York, sir. And I know his voice, and I
11 can recognize it, but it would have been impossible for me to
12 listen to all of those calls.

13 Q. Right. But someone at the FBI did listen to all those calls,
14 right?

15 A. Yes, sir.

16 Q. And uncovered no evidence that Moussaoui ever placed a call
17 from the Sherburne County Jail or received one, correct?

18 A. That's correct, yes, sir.

19 Q. And he didn't get any mail while he was there, either, did
20 he?

21 A. No, sir.

22 Q. Didn't send any mail?

23 A. No, sir.

24 Q. Didn't have access to the Internet to send any e-mails or
25 otherwise, right?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1163

1 A. He did not.

2 Q. So Moussaoui made and received no communications of any form
3 from the moment you arrested him in front of the Residence Inn
4 until 9/11, when he was -- after the attacks, right?

5 A. None that we have been able to detect, no, sir. To say that
6 he made no communications at all, inmates -- even inmates who are
7 in jail where their calls are monitored and they're strictly
8 supervised, which Sherburne County is not, that type of facility,
9 they can always get communications out. They can have another
10 inmate make a call for them. They can smuggle word-of-mouth words
11 out. Certainly we have not detected any communications by
12 Mr. Moussaoui.

13 Q. And you asked every inmate in the building, and you looked at
14 everything, and you found nothing, didn't you, Agent?

15 A. Yes, sir. Every inmate in the building is not accurate.
16 Inmates with whom we know Mr. Moussaoui had contact.

17 Q. Well, after 9/11, you weren't short on resources. You had
18 enough people to interview everybody in the jail that you wanted
19 to, didn't you?

20 A. No, sir. And to say that we were not short of resources is
21 inaccurate. We were very busy. Our resources grew, but so did
22 our workload.

23 Q. But you found nothing in terms of a communication by
24 Moussaoui?

25 A. That's correct, yes, sir.

1 Q. Look at Exhibit 632, please.

2 A. 632.

3 THE COURT: Any objection to 632?

4 MR. NOVAK: Bear with me for a second, Your Honor?

5 THE COURT: Yes, sir.

6 MR. NOVAK: No objection, Your Honor.

7 THE COURT: All right, it's in.

8 (Defendant's Exhibit No. 632 was received in evidence.)

9 MR. MAC MAHON: Thank you.

10 Q. All right. What's this, Agent?

11 A. This is the criminal -- the opening to the criminal
12 investigation of Mr. Moussaoui.

13 Q. Okay. And that's a counterterrorism case?

14 A. It is. In this case, it's 265, it's a criminal
15 counterterrorism case.

16 Q. And if we could scroll down a little bit? Whose handwriting
17 is that?

18 A. Mine.

19 Q. Okay. And read to the jury what this says.

20 A. "8/21/2001, not open per instructions of SC Frasca."

21 Q. And that's the conversation we talked about before about
22 Agent Frasca telling you not to open a criminal investigation?

23 A. Right. Again, the conversation was, Unit Chief Frasca asked
24 that I not -- or told me that he was not going to forward the
25 request to Department of Justice to contact the U.S. Attorney's

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1165

1 Office, so we did not open the criminal case, and that's what that
2 reflects.

3 Q. All right. What does the -- and I actually can't read it, so
4 I'm just asking it: What is this language?

5 A. That's actually my original -- the -- the one that you had me
6 read was a sticky that was placed on this document for one of the
7 inquiries that this went through. The thing that's less easily
8 read is my writing also. It says "(not open per tel call with
9 Unit Chief Frasca)." Essentially, the substance of the
10 information is the same.

11 Q. Without his approval, there was no way to open the criminal
12 case?

13 A. No, sir, that's not accurate. Without his approval, there
14 was no way to contact the U.S. Attorney's Office.

15 Q. There wasn't any way to advance your investigation without
16 his approval through the U.S. Attorney's Office in Minneapolis,
17 correct?

18 A. Correct.

19 Q. Thank you.

20 All right, Exhibit 738, please.

21 THE COURT: Any objection?

22 MR. NOVAK: No objection, Your Honor.

23 THE COURT: All right, it's in.

24 (Defendant's Exhibit No. 738 was received in evidence.)

25 BY MR. MAC MAHON:

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1166

1 Q. Okay. What's Exhibit 738, Agent?

2 A. It's an e-mail from myself to Mike Maltbie, Supervisory
3 Special Agent Maltbie at headquarters, requesting that the U.S.
4 Secret Service, that's what USSS is, be notified.

5 Q. Go ahead.

6 A. Did you want me to read it?

7 Q. Yes, please.

8 A. "Mike, it's imperative that the USSS be apprised of this
9 threat potential indicated by the evidence contained in the EC.
10 If he seizes an aircraft flying from Heathrow to New York City, it
11 will have the fuel onboard to reach D.C."

12 Q. You sent that to Mr. Maltbie on August 21, right?

13 A. That's correct.

14 Q. Did he call you back after you sent him that e-mail?

15 A. I can't, I can't recall. He may have.

16 Q. Okay.

17 A. I can't remember.

18 Q. And Agent -- when Agent Frasca told you not to open a
19 criminal case, he didn't -- not to contact the U.S. Attorney's
20 Office, he didn't do that in writing, either, did he?

21 A. No, sir.

22 Q. Do you have any written response from Mr. Maltbie to this?

23 A. Not this specific e-mail. I've never seen a written
24 response.

25 Q. It's a pretty extraordinary request from a street agent to

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1167

1 Washington, isn't it?

2 A. No, sir, no. In fact, again, as I discussed, our job is to

3 suck in as much evidence or as much intelligence as possible

4 regarding our investigations and to forward it to headquarters.

5 If we give it a little nudge in the direction it should go because

6 we're the first hand recipients of it, that's not -- that's not

7 unusual at all. It's -- headquarters is our voice to the other

8 agencies.

9 Q. Why did you send this e-mail? You wanted a response, right?

10 A. I wanted Mr. Maltbie to notify Secret Service headquarters.

11 Q. On August 21st, 22nd, and 23rd, did he ever do that?

12 A. Not that I know of.

13 Q. In fact, he told you not to, right?

14 A. He told me not to communicate directly with FAA.

15 Q. Right. You sent him a similar one that we'll get to later,

16 and his response was to tell you, remember, you're an agent.

17 That's not your job. You stay out of this essentially, right?

18 A. I think his exact, the exact substance of what he said was

19 things work better when we coordinate headquarters to

20 headquarters, and so in his role as a headquarters person, he is

21 going to send the communication from FBI headquarters in official

22 terms to in this case FAA headquarters.

23 Q. And he threatened actually to write you up on administrative

24 charges for something else you did, right? Going to the CIA

25 directly?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1168

1 A. No, that's not true.

2 Q. But you never received any written response from anybody to
3 Exhibit 738, right?

4 A. No.

5 Q. You don't remember any verbal response from anybody?

6 A. No. Although the response did come in the form of a teletype
7 that was sent sometime later.

8 Q. The 5th of September, right?

9 A. I believe it was written on the 4th.

10 Q. Well, we'll get to that document.

11 A. Yes, sir.

12 Q. Now, look at Exhibit 336.

13 THE COURT: Any objection?

14 MR. NOVAK: No objection, Your Honor.

15 THE COURT: All right, it's in.

16 (Defendant's Exhibit No. 336 was received in evidence.)

17 MR. MAC MAHON: Thank you.

18 Q. What's Exhibit 336, Agent?

19 A. It looks like a request of a foreign government from one of
20 our legal attache offices overseas, but I can't say for sure.

21 Q. Why don't you go to the second page. See if that helps.

22 A. Yep, I can see there the fax header says, "Legat Paris," so
23 presumably it's provided by legat Paris to the French government.

24 Q. Okay. Let's have Ms. Bishop show you the second page.

25 Okay. What is that, Agent?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1169

1 A. That is a fax copy or a scanned copy of Mr. Moussaoui's
2 French national identity card.

3 Q. And that's something he gave you when he was arrested, right?

4 A. Yes, sir. That was something that was in his passport case.

5 Q. All right. And it said this is his birthday?

6 A. Yes, sir.

7 Q. That was correct, wasn't it?

8 A. It was.

9 Q. All right. And same here, place of birth, right?

10 A. It was.

11 Q. As was this, too, right?

12 A. The date he received it? I assume it was. I have no way of
13 checking that.

14 Q. All right. And what would be just, if you know, what would
15 have been included with the, the communication to the legat in
16 Paris? Would they have gotten the full EC that we spent so much
17 time talking about this morning?

18 A. Yes, sir. Not only would they have gotten that through the
19 normal FBI system; they certainly got it because I e-mailed it to
20 them immediately.

21 Q. And that would include the part about Moussaoui, you
22 believed, was going to use a weapon to disable the crew on a plane
23 and take it over, right?

24 A. Yes, sir.

25 Q. And it listed the statutes you thought he was conspiring to

1 violate?

2 A. Correct.

3 Q. And the, and the French legat sent you -- look at Exhibit
4 337, if you would, please.

5 Strike that half-question, please.

6 337. My question before that, Your Honor, was --

7 THE COURT: All right. Do you want 337 moved in?

8 MR. MAC MAHON: Yes, please.

9 THE COURT: Any objection?

10 MR. NOVAK: Judge, I think there needs to be a
11 foundation set for this document. It's not his.

12 THE COURT: All right, lay a foundation.

13 BY MR. MAC MAHON:

14 Q. Agent, have you ever seen this exhibit, 337?

15 A. I have.

16 Q. Okay. And when did you see it?

17 A. I saw it first in Arabic within a short time after being
18 notified by our FBI office in Paris, and then I was able to pull
19 up the English translation after 9/11.

20 MR. NOVAK: Judge, that's fine. I have no objection.

21 THE COURT: All right, it's in.

22 (Defendant's Exhibit No. 337 was received in evidence.)

23 BY MR. MAC MAHON:

24 Q. Okay. So when did you receive Exhibit 337?

25 A. I don't know that I ever received this document. What I did

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1171

1 was I pulled it up on the Internet after receiving the information
2 from our office in Paris. So I viewed it on the Internet. As far
3 as when I received the document, I can't say. I don't know that I
4 have ever received the document.

5 Q. You're not sure you ever received 337?

6 A. Right, as a hard copy document. I viewed it on the Internet.

7 Q. Oh, I see.

8 And tell the jury why this was of interest to you.

9 A. Because the information received from our legal attache's
10 office in Paris advised me that this person, this Shaheed Masood
11 Al-Benin, who was killed in Chechnya, was an associate of
12 Mr. Moussaoui's.

13 Q. And that's why you pulled this document up to see what it
14 was, right?

15 A. Right.

16 Q. It was the result of information you received from Paris?

17 A. Yes, sir.

18 Q. Let's -- we'll get to that in a second. Look at Exhibit 329,
19 if you would, please.

20 THE COURT: Any objection to 329?

21 MR. NOVAK: No objection, Judge.

22 THE COURT: All right, it's in.

23 (Defendant's Exhibit No. 329 was received in evidence.)

24 BY MR. MAC MAHON:

25 Q. Okay, what's this?

1 A. I'm not sure. This looks -- this might be Greg Jones's
2 notes.

3 Q. They're not your notes?

4 A. No, sir.

5 Q. Okay. Did you have any conversation with Mr. Maltbie that
6 you recall on the 22nd of August, 2001?

7 A. I'm certain that I did, but this is -- these are clearly
8 someone else's notes. Again, I'm going to -- although I can't
9 recognize the handwriting specifically, I'm going to say they're
10 Acting Supervisory Special Agent Jones's notes.

11 Q. Okay. Well, I won't ask you about someone else's notes,
12 Agent.

13 How about Exhibit 327?

14 THE COURT: All right, 327?

15 MR. MAC MAHON: Yeah, I'm going back one, Your Honor,
16 I'm sorry.

17 THE COURT: All right. Any objection to 327?

18 MR. NOVAK: No objection, Judge.

19 THE COURT: All right, it's in.

20 (Defendant's Exhibit No. 327 was received in evidence.)

21 THE WITNESS: Yes, sir, this is mine. I wrote this.

22 BY MR. MAC MAHON:

23 Q. Okay. What is -- this is the first one I've seen -- and
24 there could have been more, I might have missed them, but this
25 says "priority" on it. What does that mean?

1 A. That's one level of precedence down from "immediate." And
2 the reason it was sent priority was on the basis of information
3 learned about Mr. al-Attas. I was requesting investigation
4 primarily by Oklahoma City but also in Memphis Division regarding
5 Mr. al-Attas and some of his associates.

6 Q. Okay. And what -- again, if I -- this -- we've now got
7 another group here. Counterterrorism, is that the same as we
8 testified to before?

9 A. Correct.

10 Q. Okay. Now, who's -- now, we have ITOS and RFU on the right.
11 Do you see that?

12 A. I do.

13 Q. Okay. Tell the jury what the RFU is.

14 A. By August 22, we knew that Mr. Moussaoui was not under the
15 purview of the Iran Unit, and as I testified earlier, it had been
16 hand-carried over to RFU, or the Radical Fundamentalist Unit,
17 where Unit Chief Frasca was in charge, and the person assigned to
18 Minneapolis was Supervisory Special Agent Maltbie.

19 Q. Okay. And the Iran Unit dealt with Hezbollah and other
20 Iranian-type-based terrorist organizations, where the RFU
21 essentially was dealing with the Sunni extremists, correct?

22 A. Yes, sir.

23 Q. So you would have thought that the Sunni extremists -- it was
24 your understanding at that time that the Sunni extremist group --
25 strike that question.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1174

1 The people in the Radical Fundamentalist Unit at that
2 time, your understanding was they were the most knowledgeable
3 people about Sunni extremism, including Bin Laden, right?

4 A. No, sir. There was another unit that focused on Bin Laden.

5 Q. And which unit was that?

6 A. That was the Usama Bin Laden Unit, or UBLU.

7 Q. Okay. Where is that unit located?

8 A. Under -- also at FBI headquarters, under ITOS.

9 Q. So when you sent something to ITOS here and it went to RFU,
10 does that mean it would or would not go to the Bin Laden Unit to
11 your knowledge?

12 A. Would not go to the Bin Laden Unit.

13 Q. And even though Bin Laden is mentioned in your ECs, you
14 didn't feel the need to send it there?

15 A. Yes, sir. Mr. al-Attas said that Moussaoui, he didn't
16 believe Mr. Moussaoui had a connection to Bin Laden, and
17 Mr. Moussaoui himself answered my question that he didn't follow a
18 sheikh or anybody in particular.

19 Q. So you just took his word that he didn't follow a sheikh, and
20 even though you had evidence that he was pointing out Usama Bin
21 Laden on a television, was conspiring in your mind to hijack an
22 aircraft, you didn't send it to the Bin Laden Unit, did you?

23 A. No, sir.

24 MR. MAC MAHON: All right, Exhibit 346, if we could,
25 please, Your Honor?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1175

1 THE COURT: All right. Any objection to 346?

2 MR. NOVAK: Just one moment, Your Honor.

3 No objection, Your Honor.

4 (Defendant's Exhibit No. 346 was received in evidence.)

5 THE COURT: Mr. MacMahon, I'm reminded that it's 12:30,

6 which is our normal lunchtime, so we'll take our one-hour lunch

7 break at this point and reconvene at 1:30.

8 (Recess from 12:32 p.m., until 1:30 p.m.)

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3-20-06

U.S. v. Moussaoui

Volume VI

Page 1176

1 A F T E R N O O N S E S S I O N

2 (Defendant and Jury in.)

3 THE COURT: Mr. MacMahon?

4 MR. NOVAK: May I bring up one point before Mr. MacMahon
5 begins?

6 THE COURT: Yes.

7 MR. NOVAK: The Exhibit No. 329, the item both
8 Mr. MacMahon and I were both under the misimpression was Agent
9 Samit's notes, and they were somebody else's notes, without
10 objection that went into evidence, I would move to strike that,
11 Your Honor.

12 MR. MAC MAHON: No objection, Your Honor.

13 THE COURT: All right. Let's --

14 MR. NOVAK: It is 329, Judge. I apologize.

15 THE COURT: I know it is. Are you anticipating another
16 witness with whom that will be moved in down the road?

17 MR. MAC MAHON: Not at this point, Your Honor. We will
18 see. But it is not -- I agree with Mr. Novak that it is not
19 properly in at this point.

20 THE COURT: All right. 329 is out.

21 (Defendant's Exhibit No. 329 was withdrawn.)

22 MR. NOVAK: Thank you, Your Honor.

23 CROSS-EXAMINATION (Cont'd.)

24 BY MR. MAC MAHON:

25 Q. Agent Samit, I think we were -- when we broke for lunch, I

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1177

1 think we were looking at Exhibit 346.

2 THE COURT: Right. Is there an objection to 346?

3 MR. NOVAK: No, Your Honor.

4 THE COURT: All right. It is in.

5 BY MR. MAC MAHON:

6 Q. Could you tell the people in the jury what Exhibit 346 is,
7 please?

8 A. This is an electronic communication from our office in Paris
9 to a number of recipients, including me, and it summarizes
10 information provided by the French government about Mr. Moussaoui.

11 Q. Okay. And, again, when we look at these, these things mean
12 something to you as an FBI agent, right? What does that one mean?

13 A. "Routine" just means that it is handled as a routine matter.
14 It is being provided without an immediate precedence. `Because
15 Mr. Abbott was primarily providing information, he didn't set it
16 as an immediate -- he ensured that I got it anyway by e-mailing it
17 to me and, in fact, by giving me a telephone call, but the
18 precedence of that, this communication, he just said is routine.

19 Q. Okay. And how about this, the, again, here, the
20 counterterrorism one that I have signed?

21 A. That is as we talked about earlier, that's the unit, the
22 Radical Fundamentalist Unit with Supervisory Special Agent
23 Maltbie.

24 Q. All right. And to your knowledge, does it go to more people
25 than Maltbie? You know, just -- on or about this date, August

1 22nd, 2000 -- would this go to Maltbie, or would it go to anybody
2 else?

3 A. Well, it could go to anyone who was searching through the
4 case files, but it's specifically addressed to Mike Maltbie.
5 Anyone within the FBI who has access to our computer system and
6 specifically who has access to cases of this nature could pull it
7 up.

8 But it is going to these addressees at a minimum, and
9 then can be provided to others as needed.

10 Q. All right. But that actually would depend on whether it was
11 classified or not?

12 A. That's correct.

13 Q. So if this contained classified information, someone in this
14 time frame -- it is not always that they would have found it,
15 right?

16 A. I'm not sure.

17 Q. It is not -- you didn't have a searchable database that
18 included all of the classified information that the FBI had,
19 right?

20 A. Oh, no, that would include all, no. There was a searchable
21 database that included a great deal of the information, but by no
22 means all.

23 Q. All right. And certain information in 302s and letterhead
24 memorandums would go up, but not all of it?

25 A. Right. Where this would go would largely be dependent on who

1 it was addressed to, and then from there, those people choosing to
2 forward it elsewhere.

3 Q. Okay. So we can -- Mr. Maltbie would have received this,
4 correct?

5 A. He would.

6 MR. MAC MAHON: Let's go -- let's go to the bottom, if
7 you would, please, Ms. Bishop. There you go.

8 BY MR. MAC MAHON:

9 Q. So the reference lines in here, these are your phone calls,
10 right, Agent Samit? You called on the 16th and the 17th?

11 A. That's correct.

12 Q. Because you wanted, you wanted information out of these
13 people, right?

14 A. That's correct.

15 Q. And you got it, didn't you?

16 A. Yes, sir.

17 Q. Turn to the next page, if you would.

18 Oh, I'm sorry, just, let's leave the bottom of the first
19 page, if we could, I'm sorry.

20 So "Legat Paris has been advised by the French that the
21 above-captioned Zacarias Moussaoui is known," right?

22 A. Yes, sir.

23 Q. And he is -- and then it is going to tell us how Moussaoui is
24 known, right?

25 A. Yes, sir.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1180

1 Q. Okay. Let's go to the next page. Read to the jury what you
2 can -- what's still in there, if you could.

3 A. "Date, place of birth" -- that's what DPOB stands for --
4 "1971 at Bazas, France (Department 33). Is French and his father
5 is from Benin. Died on April 12, 2000 in Chechnya fighting with
6 the Mujahideen. While in Chechnya, that person was a computer
7 expert and worked for Emir Al-Khattab Ibn, a/k/a Al Soueilem
8 Samer, a Saudi known as the Black Arabian and a Mujahideen leader
9 in Chechnya."

10 Q. Okay. And keep reading, if you would.

11 A. "After that person's death, someone was interviewed who
12 advised that that person was recruited to go to Chechnya by
13 Zacarias Moussaoui and stated that Moussaoui was the dangerous
14 one."

15 Q. Okay. And this information confirmed what you believed about
16 Mr. Moussaoui as someone affiliated with Islamic fundamentalism,
17 right?

18 A. Yes, sir.

19 Q. It had the right date of birth on it too, right? You had the
20 right Mr. Moussaoui, didn't you?

21 If you can tell from this -- if you can't tell from
22 this, just tell me.

23 A. I can't tell from this.

24 Q. You didn't have any concern on August 23rd of 2001 that you
25 had the right Zacarias Moussaoui, did you?

1 A. I did not.

2 Q. Nothing in this report dissuaded you from that, did it?

3 A. No.

4 THE COURT: Mr. MacMahon, I wanted to stop for one
5 second. Ladies and gentlemen, it is probably obvious to you, but
6 I wanted to make sure you understand. This exhibit is an example
7 of what I had mentioned to you at the beginning of the trial, what
8 we call a redacted document. This is not the form in which the
9 agent received this information.

10 All these black markings were not on the document when
11 you got it, correct?

12 THE WITNESS: Correct, Your Honor.

13 THE COURT: All right. But we are not able to let
14 you-all see what's behind the black. Remember, I indicated to you
15 earlier you are not to draw any inferences against either side
16 because of that, that's just the nature of the evidence in this
17 case, but I didn't want the jury to be confused about how these
18 documents are coming in.

19 MR. MAC MAHON: Thank you, Your Honor.

20 BY MR. MAC MAHON:

21 Q. Now, Agent Samit, in a prior question I asked you about 302s,
22 and as a lawyer, I know what I'm talking about. Would you tell
23 the jury what a 302 is, please?

24 A. An FD-302 is a standard FBI form that is a report of
25 investigation, an interview or a surveillance or any type of

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1182

1 investigation we do, and a criminal matter, primarily, goes on an
2 FD-302.

3 Q. So if you interviewed a witness, if you interviewed a witness
4 as part of an investigation, you would create a document that's
5 called form FD-302?

6 A. Yes, sir, that's correct.

7 Q. That's where it has come from?

8 A. It does.

9 Q. Okay, thank you.

10 Now, what did you know in August 22 of 2001 about Ibn
11 Khattab?

12 A. Not much, sir. I hadn't previously heard of him.

13 Q. Okay. Did you, did you find anything out about Ibn Khattab
14 and his relationship to Usama Bin Laden?

15 A. I was shortly thereafter notified by a contact in the CIA
16 that Mr. Khattab was affiliated in some form with Usama Bin Laden.

17 Q. Okay. When did you learn that?

18 A. Probably within a -- within either that day, the 22nd, or a
19 day later, the 23rd.

20 Q. Okay. You learned that the United States intelligence
21 communities believed that Bin Laden and Ibn Khattab recruited
22 people together and trained fighters together and other things,
23 correct?

24 A. No, sir. No, sir. What the information specifically was was
25 that Ibn Khattab and Usama Bin Laden had fought together in the

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1183

1 past and, therefore, had a relationship based on their fighting
2 together in the past.

3 The intelligence did not state that they recruited
4 people together or that they shared funding or, or anything like
5 that.

6 MR. MAC MAHON: Your Honor, can we approach, please?

7 THE COURT: Yes. What machine? C?

8 MR. MAC MAHON: No.

9 THE COURT: All right.

10 (Bench conference on the record.)

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3-20-06

U.S. v. Moussaoui

Volume VI

Page 1184

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3-20-06

U.S. v. Moussaoui

Volume VI

Page 1185

1
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3-20-06

U.S. v. Moussaoui

Volume VI

Page 1186

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22 (End of bench conference.)

23 MR. MAC MAHON: Mr. Wood, would you show Exhibit 792 to

24 the witness, please. I think this is the easiest way to do it, if

25 you would show him this one, please.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1187

1 THE COURT: That's not in your book, correct?

2 MR. MAC MAHON: Ms. Bishop says it is in the book, Your
3 Honor. It is one of the last ones.

4 THE COURT: All right.

5 BY MR. MAC MAHON:

6 Q. Have you ever seen that before?

7 A. No, sir.

8 Q. Okay, thank you.

9 Were you aware that there was any information in the FBI
10 database that linked Bin Laden to Ibn Khattab?

11 A. I had not seen the information specifically. What I was
12 aware, Supervisory Special Agent Maltbie told me in an e-mail that
13 he and his unit were well aware of Ibn Khattab, but in terms of
14 information in the FBI linking them, I had not seen that, no.

15 Q. Okay. Did you search the FBI database for information on Ibn
16 Khattab?

17 A. I did. I searched ACS indices for that name.

18 Q. Did you come up with the Phoenix memo?

19 A. I did not.

20 Q. The Phoenix memo references Ibn Khattab, doesn't it?

21 A. It does.

22 Q. You didn't find that before 9/11, you already told us that,
23 right?

24 A. Correct.

25 THE COURT: It has been a while since we went through

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1188

1 that. Maybe give -- remind the jury what you understand the
2 Phoenix memo to be.

3 THE WITNESS: Your Honor, my understanding, it was a
4 memo prepared by Special Agent Ken Williams in the Phoenix
5 Division, of which I learned after 9/11, discussing that there
6 were Islamic extremists in large numbers engaged in flight
7 training throughout the United States.

8 THE COURT: And it is your understanding there was a
9 reference to Chechnya in that memo?

10 THE WITNESS: Upon recent review of it, yes, Your Honor,
11 there was a reference to Chechnya in there.

12 BY MR. MAC MAHON:

13 Q. There is a reference to Ibn Khattab specifically, isn't
14 there?

15 A. There was.

16 Q. The reference is that one of the people that Mr. Williams was
17 interested in in Phoenix -- and I could be -- I believe had a
18 poster of Ibn Khattab in his room, right?

19 MR. NOVAK: I am going to object. I think Mr. MacMahon
20 is testifying now. If there is a document, we will stipulate
21 there is a document.

22 THE COURT: It is a leading question, so I think on
23 cross it is all right. As long as the witness says yes or no,
24 then the jury has a factual issue. If it is just a question and
25 the witness can't answer it, then that's not proper.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1189

1 THE WITNESS: I do recall, yes, that that was discussed
2 in there. And I should, I should clarify that when I say I
3 searched indices for Ibn Khattab, that means that I perform a type
4 of search designed to bring up all documents which contain his
5 name where he was indexed, where he was placed as this primary
6 subject of the document or the subject of the investigation.

7 I did not do a text search, which would have brought up
8 every single document that contained his name.

9 BY MR. MAC MAHON:

10 Q. And that's because in August of 2001, your computer didn't
11 have the capacity to do a text search of all the information on
12 the database?

13 A. It did. It did at the time.

14 Q. It did? And you didn't type in "Ibn Khattab"?

15 A. I typed in "Ibn Khattab" to gain as much background
16 information as I could. I did it as again an indices search, an
17 index search, not as a text search.

18 Q. All right. So this information that you received from the
19 French, this was very important to you, wasn't it?

20 A. Yes, sir.

21 Q. Okay. Why was this so important to you?

22 A. It showed that he was known to another government to have
23 been affiliated with Islamic extremists.

24 Q. And to be recruiting Islamic extremists to fight in far-off
25 lands?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1190

1 A. At least one, yes, sir.

2 Q. All right. Anybody from headquarters ever call and ask you
3 about that?

4 A. No, sir.

5 MR. MAC MAHON: Exhibit 633, please.

6 THE COURT: Any objection to this?

7 MR. NOVAK: No objection, Your Honor.

8 THE COURT: All right. It's in.

9 (Defendant's Exhibit No. 633 was received in evidence.)

10 BY MR. MAC MAHON:

11 Q. And what is Exhibit 633, Mr. Samit?

12 A. It's an e-mail from myself to my supervisor and to the FBI's
13 detailee to the CIA.

14 Q. Okay. And who is that?

15 A. Chuck Frahm.

16 Q. Okay. What was the purpose of sending this to Chuck Frahm?

17 A. To run all foreign overseas names that had surfaced in the
18 investigation of Mr. Moussaoui in order to determine if any of
19 those people were known to the CIA.

20 Q. And you passed on to Mr. Frahm the information about Ibn
21 Khattab as well, right?

22 A. Yes, sir.

23 Q. Okay. And you learned from Mr. Frahm that within the CIA,
24 the connection between Ibn Khattab and Moussaoui was considered
25 firmly established, right?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1191

1 A. Between Ibn Khattab and Moussaoui?

2 Q. Excuse me, Ibn Khattab and Usama Bin Laden. Thank you.

3 A. What I learned from a representative at the CIA was that
4 there was a past association between Usama Bin Laden and Ibn
5 Khattab.

6 Q. At the CIA you learned before 9/11 there was no question that
7 Ibn Khattab and Usama Bin Laden had worked together, right?

8 A. In the past, yes, sir.

9 Q. And you tried to tell that to Mr. Maltbie, too, didn't you?

10 A. I told Mr. Maltbie that, yes, sir.

11 Q. And he just disregarded it when you said it, correct?

12 A. He didn't disregard it. He said that they were well aware of
13 Ibn Khattab and that they were looking into that.

14 Q. Okay. And you testified last week that there was -- that a
15 FISA had to have a list of organizations that were on a State
16 Department list? Do you remember testifying to that?

17 A. No, sir. What I testified to was that there existed a State
18 Department list, that Mr. Maltbie in discussing that with me said
19 that it needed to be a recognized group, which is not the same as
20 that list, but in order to obtain a FISA, the designated terrorist
21 organization or the terrorist organization does not need to be on
22 the State Department list.

23 Q. You didn't tell the jury that last time you testified; you
24 told them that there was a State Department list and Ibn Khattab
25 wasn't on it, right?

1 A. That's correct.

2 Q. All right. And that has nothing to do with whether or not
3 you could get a FISA, does it?

4 A. No.

5 MR. MAC MAHON: 737, please.

6 THE COURT: Any objection to 737?

7 MR. NOVAK: Just a moment, Your Honor.

8 THE COURT: Yes, sir.

9 MR. NOVAK: No objection, Your Honor.

10 THE COURT: All right. It's in.

11 (Defendant's Exhibit No. 737 was received in evidence.)

12 BY MR. MAC MAHON:

13 Q. What's this document, Agent?

14 A. This is a response from me to Jack Salata, who was the FAA's
15 detailee to the FBI. Mr. Salata, it looked like, went through the
16 FAA registry and surfaced information about a pilot certificate
17 for Mr. Moussaoui. I just clarified that it was the student pilot
18 certificate, as we discussed last week, that was not a pilot's
19 license but, in fact, just his medical clearance to fly, to begin
20 training.

21 Q. Okay. And you were looking for a little more than that,
22 weren't you there, Agent Samit?

23 A. I'm not sure.

24 Q. Why don't you look at what I just circled.

25 A. Oh, right. And that would have also -- Mr. Salata actually

1 came up with that himself, because that's his portion. I think he
2 was looking at trying to find criminal charges that Mr. Moussaoui
3 had falsified his address.

4 Q. Right. You were looking for some way to make a false
5 statement charge against Mr. Moussaoui?

6 A. No, sir, I wasn't; Mr. Salata was. That portion down there,
7 to clarify, is his e-mail to me.

8 Q. Okay. But you knew that that's what this was about?

9 A. I understood that.

10 Q. Trying to figure out some way to find a predicate criminal
11 act so that you could get a search warrant and find out what was
12 in his hotel room, right?

13 A. No, sir, that's not accurate. This is Mr. Salata's e-mail to
14 me. I understood that the Goddard Avenue address was Airman
15 Flight School. It didn't seem likely that Mr. Moussaoui would
16 falsify so obviously. It was probably the only permanent address
17 he had at the time he took his medical, and that that 1001, that
18 that false statement charge wouldn't have stuck.

19 Q. Well, you tried, didn't you?

20 A. No, sir. Again, that's Mr. Salata's e-mail to me, sir.

21 Q. Well, you got the e-mail. Did you talk to Jack Salata on or
22 about August 22nd about whether you could get a false statement
23 charge against Moussaoui?

24 A. I did not.

25 Q. Because you were looking for predication for criminal act,

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1194

1 right?

2 A. I was.

3 Q. Right. And actually, you have testified that on August 21st,
4 when you received the information from the French, that that to
5 you was more than sufficient criminal predicate to get a search
6 warrant against Moussaoui, wasn't it?

7 A. I testified that I believed that it was sufficient, yes, sir,
8 but in terms of trying to find a false statement charge here, that
9 was Mr. Salata's idea, and I didn't think that that would work,
10 that that would be a viable alternative.

11 Q. You, you as a field agent in Minneapolis, when you read the
12 French information, there was no question in your mind that every
13 predicate act you needed to charge Moussaoui with a crime and get
14 a search warrant now was available for you, right?

15 A. No, sir. Those are -- that's comparing apples and oranges.
16 The information from the French was, again, underneath the
17 intelligence investigation, underneath the intelligence track.
18 When I read that, it provided additional evidence that
19 Mr. Moussaoui was linked to a foreign terrorist organization.

20 As of yet, it didn't constitute any additional evidence
21 of a crime being committed in the United States.

22 Q. It confirmed your suspicion that he was a terrorist, didn't
23 it?

24 A. Yes, sir.

25 Q. And you could have put that in a search warrant at that time,

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1195

1 right, that you had confirmed from a foreign government that he
2 had connections with terrorists?

3 A. No, sir.

4 Q. Because you needed to get that over the wall, right?

5 A. Right.

6 Q. So there was some bureaucratic impediment to using even the
7 French information that you got?

8 A. No, sir, not a bureaucratic impediment. It was the attorney
9 general guidelines designed to safeguard the citizens and people
10 under the protection of the law in the United States from abuse.
11 I wouldn't call that a bureaucratic impediment.

12 Q. Well, how about a legal impediment? Is that fair enough?

13 A. Yes, sir. Yes, sir.

14 Q. So there was some legal impediment to you using the
15 information you received from the French to try to go get a
16 criminal search warrant against Moussaoui?

17 A. Yes, sir. There was a legal impediment to the use of the
18 information, one; and, two, it did not meaningfully contribute to
19 probable cause to believe that a crime was occurring. The fact
20 that Mr. Moussaoui was involved with the Chechen Mujahideen did
21 not at the time add any weight to the criminal search warrant.

22 Q. You didn't even try, did you, Agent? You didn't even try?

23 A. I'm sorry, what's your --

24 Q. You never took this information from the French that said
25 Moussaoui was recruiting people connected to known terrorist

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1196

1 organizations and resubmitted it to anybody, did you?

2 A. Yes, sir. I, in fact, referenced it in my request for FISA
3 two days later.

4 Q. For a criminal search warrant, you never again tried --

5 A. No, sir.

6 Q. -- to supplement a criminal search warrant for Moussaoui?

7 A. No, sir.

8 Q. And you never asked for permission to get this information
9 over the wall and to try to get it to somebody, either, did you?

10 A. No, sir.

11 MR. MAC MAHON: Exhibit 56, please.

12 THE COURT: Any objection?

13 MR. NOVAK: Yes, Judge, we object. This is not his
14 e-mail.

15 THE COURT: Well, again, lay a foundation. I see
16 there's a cc on it, so --

17 BY MR. MAC MAHON:

18 Q. Agent Samit, have you ever seen Exhibit 56 before?

19 A. I have.

20 Q. That's because you received it on or about August 22nd, 2001?

21 A. That's correct.

22 THE COURT: I will overrule --

23 MR. NOVAK: I will withdraw the objection.

24 THE COURT: All right. It's in.

25 (Defendant's Exhibit No. 56 was received in evidence.)

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1197

1 BY MR. MAC MAHON:

2 Q. Have you seen that before, Agent?

3 A. I have. That's, that's Exhibit 56. I have seen that.

4 Q. Excuse me?

5 A. Yes, I have seen it, yes, sir.

6 Q. Who's Homer Pointer?

7 A. He is an attorney in the National Security Law Unit at FBI
8 headquarters.

9 Q. Who is Coleen Rowley?

10 A. She was at the time the chief division counsel in the
11 Minneapolis Division.

12 Q. And reading on the bottom, what is it -- did you receive both
13 of these e-mails or just the second one? Do you remember?

14 A. I don't recall. I believe I saw the complete package. I
15 believe it was Coleen that forwarded it to me, Ms. Rowley, so it
16 would have been the whole thing we see here.

17 Q. Okay. It says here that Mr. Pointer says: Have your folks
18 asked you for your assessment of their chances of getting a
19 criminal warrant, right?

20 A. Yes, sir.

21 Q. Okay. Did you respond to that?

22 A. Did I respond to that? No. The e-mail wasn't to me, sir.

23 Q. Well, did you respond to it when you got Ms. Rowley's
24 response?

25 A. No.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1198

1 Q. You didn't chime in at all?

2 A. No.

3 Q. And Ms. Rowley said that the U.S. Attorney's Office had a
4 higher standard much of the time so they weren't going to risk it,
5 right?

6 A. Yes, sir.

7 Q. That was a discussion you had with her, wasn't it?

8 A. It was.

9 Q. You disagreed with her, right?

10 A. I did.

11 Q. You told her on or about August 22nd that it was more than
12 sufficient probable cause to get a search warrant if you could
13 just go to the U.S. Attorney's Office, right?

14 A. The discussion I had with Ms. Rowley, I provided my
15 information to her and my arguments for why I thought that we
16 should have been able to get a search warrant. She listened. She
17 took it under advisement. She said she would look into it.

18 And then when -- I guess by then she made her decision,
19 and she decided that that was what she was going to do. She did
20 advise me probably -- either shortly before or shortly after she
21 sent this e-mail, she advised me that she'd advised that we would
22 go the FISA route.

23 Q. Okay. But you had -- in that conversation with Ms. Rowley,
24 you told her that you believed that there was more than sufficient
25 probable cause and reason to go to the U.S. Attorney's Office for

1 a search warrant for all of Moussaoui's belongings, right?

2 A. Yes, sir.

3 Q. And she referenced some -- she having some dispute with the
4 U.S. Attorney's Office at that time?

5 A. I don't know.

6 Q. And she is the -- who is she again?

7 A. She was the Minneapolis Division's chief division counsel at
8 the time.

9 Q. And so as a result of this exchange, no warrant application
10 was presented at all, right? No criminal search warrant
11 application was presented to anyone?

12 A. Correct. Yes, sir.

13 MR. MAC MAHON: And Exhibit 330D, please.

14 THE COURT: 330D?

15 MR. MAC MAHON: Yes, Your Honor. 330, I'm told.

16 THE COURT: All right. Any objection to 330?

17 MR. NOVAK: No objection from the government.

18 THE COURT: All right. It's in.

19 (Defendant's Exhibit No. 330 was received in evidence.)

20 BY MR. MAC MAHON:

21 Q. By the way, looking at 330, Agent, did you know that on the
22 day before Exhibit 330 is dated, that the director of Central
23 Intelligence, George Tenet, was briefed about Moussaoui?

24 A. I did not.

25 Q. Did anybody ever ask you to provide any information for that

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1200

1 briefing?

2 A. For the briefing directly, no, sir. I was providing
3 everything I was getting to the FBI's detailee to the CIA, but no
4 one asked me specifically. I was just providing everything I had
5 to him.

6 Q. Did you know that Moussaoui had drawn the attention of the
7 director of the Central Intelligence Agency?

8 A. No, sir.

9 Q. Not at any time before 9/11 did you know there was a series
10 of briefings at the Central Intelligence Agency about Moussaoui,
11 did you?

12 A. No, sir.

13 Q. Never asked to provide any input to any of those briefings at
14 all?

15 A. Except inasmuch as I was providing everything I had, I was
16 not asked specifically to provide information to briefings.

17 Q. Nothing different than what you were already doing?

18 A. Yes, sir.

19 Q. All right. What is Exhibit 330, please?

20 A. This is my request per the direction of the Radical
21 Fundamentalist Unit, this is the EC requesting that we get a FISA
22 search warrant.

23 Q. Okay. And did you do the first draft of this?

24 A. Yes, sir. I did the first -- I'm not aware of any other
25 drafts of the electronic communication here.

1 Q. All right. Well, here, this is you, right, "drafted by"?

2 A. Yes, sir, that's me.

3 Q. And then you send this up to Mr. Maltbie again, right?

4 A. Correct.

5 Q. You know, you had had these prior problems with Mr. Maltbie
6 that we talked about before lunch. Did you ever ask to have this
7 assigned to somebody else?

8 A. No, sir. He was the supervisor responsible for Minneapolis.

9 Q. Did you discuss with anybody at the, at headquarters that
10 Mr. Maltbie and you had had -- you had a problem with Mr. Maltbie
11 before and didn't have any confidence in him?

12 A. Did I discuss it with anyone where, sir?

13 Q. Between August 16th and September 11 of 2001, did you tell
14 any of your superiors that you had had prior problems with
15 Mr. Maltbie and had no confidence that he would actually get a
16 FISA done?

17 A. Yes, sir.

18 Q. Who did you tell that to?

19 A. I told my supervisor, Acting Supervisory Special Agent Greg
20 Jones. I told my former supervisor, who was now the Special
21 Agent-in-Charge, Chris Briese, and told our Acting Special
22 Agent-in-Charge Ray Morrow.

23 Q. And nobody got him off the case, right?

24 A. No, sir.

25 Q. Did you go to anybody at headquarters and ask to have him

1 removed from this?

2 A. Did I go to anyone? No, sir.

3 Q. I mean, you knew this was -- this was very serious to you,
4 wasn't it, Mr. Samit?

5 A. It was.

6 Q. And it didn't occur to you to try to have him removed from
7 the case somehow?

8 A. No, sir.

9 Q. Even though you knew that you weren't going to get a FISA
10 once you started working with him?

11 A. Again, to say that I wasn't going to get a FISA is a
12 misrepresentation. My belief was that a FISA, because I had
13 gotten two other ones with Mr. Maltbie, was going to have a high
14 standard. To say that I was certain I wasn't going to get a FISA
15 is not accurate.

16 But to answer your question, street agents don't call
17 FBI headquarters and request that supervisors be removed from
18 cases.

19 Q. Who is Rita Flack?

20 A. She is an investigative operations specialist who works for
21 Mike Maltbie. She is an analyst, an intelligence analyst who
22 works for him.

23 Q. And you told the inspector general you regret not having
24 tried to get Mr. Maltbie removed from this case, didn't you?

25 A. I do.

1 Q. Look at the second page, please. Read the second paragraph.

2 A. "As set forth in enclosure, Minneapolis is in possession of
3 intelligence indicating that Moussaoui is connected to a radical
4 fundamentalist group operating in Chechnya, whose leader has ties
5 to Usama Bin Laden. For this reason, it is imperative that his
6 effects be searched in order to gather intelligence relating to
7 these connections and to any plans for terrorist attacks against
8 the United States or United States persons to which he may be a
9 party."

10 Q. How many people did you send this communication to?

11 A. Well, I sent it to Mike Maltbie and Rita Flack in the Radical
12 Fundamentalist Unit.

13 Q. Did you hear back from anybody else at the FBI or Justice
14 about that?

15 A. I heard back from them, from Ms. Flack or Mr. Maltbie.

16 Q. Nobody else?

17 A. No.

18 MR. MAC MAHON: Just a second, Your Honor.

19 BY MR. MAC MAHON:

20 Q. When -- when you were referencing Chechnya here, "connected
21 with a radical fundamentalist group operating in Chechnya," you
22 are referring to Ibn Khattab there, aren't you?

23 A. I am.

24 Q. And you are not referring to some civil war, are you?

25 A. Well, it was then a civil war, yes, sir.

1 Q. You are referring to a radical fundamentalist group operating
2 in Chechnya?

3 A. Absolutely. But they were operating in a civil war.

4 Q. Where does it say that in here?

5 A. It doesn't.

6 Q. Go to Exhibit 35, please.

7 THE COURT: Any objection to 35?

8 MR. NOVAK: No objection, Your Honor.

9 THE COURT: All right. It is in.

10 (Defendant's Exhibit No. 35 was received in evidence.)

11 BY MR. MAC MAHON:

12 Q. Tell the jury what this is.

13 A. This is a communication from the Oklahoma City Division to me
14 documenting the results of their investigation.

15 Q. Okay. By this time now, you were beginning to get results
16 back even from Oklahoma, right?

17 A. Correct.

18 Q. And that's what this document is. It gives you
19 Mr. Moussaoui's e-mail address, right?

20 A. Yes, sir.

21 Q. Zuluman Tangotango?

22 A. Correct.

23 Q. What did you do -- it gave you some of Mr. Moussaoui's
24 e-mails asking for flight training, right?

25 A. It did.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1205

1 Q. It gave you his application?

2 A. Yes, sir.

3 Q. Look at the document marked -- the Bates stamp on it is 0049.

4 Put that up on the screen.

5 Do you remember seeing that e-mail, Agent?

6 A. Yes, sir.

7 Q. Okay. Did you ask Moussaoui when it was that he first

8 started trying to get flight training when you arrested him?

9 A. We did.

10 Q. Did he tell you it was in October of 2000?

11 A. He didn't. He said sometime in the past, he decided.

12 Q. So you knew now there was a specific amount of time that had

13 passed between when he decided to take flight training and when he

14 finally got to the United States, right?

15 A. I knew there was some time that had passed, yes, sir.

16 Q. But that's -- that time indicated to you that there was

17 preparation for a plan, right?

18 A. Yes, sir.

19 Q. And you knew that on August 24th of 2000, when you read these

20 e-mails, right?

21 A. Yes, sir.

22 MR. MAC MAHON: Exhibit 52, please.

23 THE COURT: Any objection?

24 MR. NOVAK: It is notes. I would like to make sure they

25 are Mr. Samit's notes.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1206

1 THE WITNESS: They are not. They are not my notes.

2 MR. NOVAK: I object.

3 THE COURT: Have you ever seen them?

4 THE WITNESS: I have not. Again, I am going to guess
5 they are, from the content, they are Greg Jones's, but I can't say
6 for sure. They are not mine.

7 THE COURT: They can't go in then.

8 BY MR. MAC MAHON:

9 Q. Were you -- without reference to the exhibit, were you aware
10 that Mr. Jones told Mr. Maltbie that they were -- you were trying
11 to get Mr. Moussaoui from flying a plane into the World Trade
12 Center?

13 A. Yes, sir, I overheard that conversation.

14 Q. When was that?

15 A. Sometime around the time of the FISA application, sometime
16 after the 24th, I have this -- I know the circumstances of that
17 well. I overheard Mr. Jones saying that.

18 Q. Okay. And that was before September 11th, right?

19 A. Yes, sir.

20 Q. And it was August 24th or so; is that what you are telling
21 us?

22 A. It would have been sometime thereafter.

23 Q. Okay. Because Mr. Jones, you were nearby in the office,
24 right?

25 A. Yes, sir, I was right close by.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1207

1 Q. And you could hear him on the phone essentially begging
2 Mr. Maltbie to help, right?

3 A. "Begging" is strong. He was requesting --

4 Q. Pleading?

5 A. I'm sorry.

6 Q. Pleading for help?

7 A. He was requesting his assistance very vigorously.

8 Q. Insistently?

9 A. Yes, sir.

10 Q. Okay. And one of the things he told Mr. Maltbie that you
11 overheard was that you were trying to make sure Moussaoui doesn't
12 get control of an airplane and crash it into the World Trade
13 Center, right?

14 A. I asked him about that afterwards, yes, sir.

15 Q. Okay. And what did he tell you?

16 A. He said it was a metaphor. He was trying to get Mr. Maltbie
17 spooled up.

18 The reason I asked him was because we had no evidence
19 that the World Trade Center or any other target in New York was
20 part of Mr. Moussaoui's target. Greg just said he pulled it out
21 of the air. It was a lucky guess.

22 Q. Okay. And -- and Mr. Maltbie, he told you, said that you
23 people were trying to get everybody all spun up in Washington,
24 right?

25 A. That's correct, yes, sir.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1208

1 Q. It is the same thing essentially he told you about the Afghan
2 terrorism, right? Didn't he tell you --

3 A. About the Taliban case we were discussing?

4 Q. Yes, sir.

5 A. Yes, sir.

6 Q. The exact same words, right?

7 A. Well, no, the words regarding the Taliban terrorist were
8 actually different. It was more along the lines of what I
9 intended to pass to the Department of Defense did not constitute
10 foreign intelligence. It wasn't a spool-up issue or a spin-up
11 issue. It was more that the substance of what I wanted to pass to
12 the military did not fall under the heading of foreign
13 intelligence. That was that issue.

14 Q. But he told you you were being, with respect to this Taliban
15 person, that you were being overly excited about what you were
16 learning, correct?

17 A. Yes, sir.

18 Q. And that's basically the way he treated you in this
19 investigation, too, didn't he?

20 A. It is, yes, sir.

21 Q. He disregarded your beliefs, didn't he?

22 A. I'm certain that Mr. Maltbie believed what I had to say. His
23 statements were more along the lines of the intelligence that we
24 were providing did not carry sufficient weight to win the day with
25 any of the other people that we would need to sell the case to.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1209

1 Q. Okay.

2 A. It wasn't a question of him disregarding my beliefs.

3 Q. But he never to your knowledge even submitted this thing to
4 anybody, did he?

5 A. That's not true. That's not true at all, sir. He submitted
6 it to the National Security Law Unit.

7 Q. With all of your -- most of the information you had put in it
8 redacted out of the document, right?

9 A. One document that he proposed to us had that information
10 redacted, but my understanding is, and I don't know this directly,
11 but my understanding is when he went to that unit, he gave them a
12 verbal briefing. So I have no way of knowing what he actually
13 said to them.

14 Q. Mr. Maltbie never once took your package and walked it over
15 across the street, essentially, to the FISA court in Washington
16 and asked somebody, a judge, to say whether there was probable
17 cause in this case?

18 A. That's correct.

19 MR. MAC MAHON: All right. Exhibit 693, please.

20 THE COURT: Any objection?

21 MR. NOVAK: Bear with me a second, Judge.

22 No objection.

23 THE COURT: All right. It is in.

24 (Defendant's Exhibit No. 693 was received in evidence.)

25 MR. MAC MAHON: Thank you.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1210

1 BY MR. MAC MAHON:

2 Q. Have you seen this before?

3 A. Yes, sir. I wrote it.

4 Q. What was the purpose of Exhibit 693?

5 A. The purpose, this is another letterhead memorandum, the
6 purpose of which was to serve as a vehicle to go to the Department
7 of Justice substantiating our request for a FISA search warrant of
8 Mr. Moussaoui's belongings. You can see there under the request
9 to Minneapolis, it spells it out.

10 Q. All right. And you wanted this to be as complete as you
11 could, right?

12 A. Yes, sir.

13 Q. Go to page 5 if you would, please. Read the paragraph at the
14 top if you would, please.

15 A. "Moussaoui was likewise unable to convincingly explain a trip
16 to Pakistan lasting from December 2000 until February 2001,
17 initially informing agents that this was for personal reasons. He
18 later indicated that he was in Pakistan attempting to find a wife.
19 Recipients will note that Moussaoui arrived in the U.S. only 16
20 days after leaving Pakistan, a country determined through other
21 Minneapolis investigations to be a conduit for persons traveling
22 to Afghanistan in order to provide or receive terrorist training
23 and indoctrination."

24 Q. And how did you know that?

25 A. From my other investigations.

1 Q. Okay. And you knew, you knew that even before you arrested
2 Moussaoui, right?

3 A. Yes, sir.

4 Q. Did anybody from Washington call and ask you why it is you
5 think Moussaoui might have traveled to Afghanistan to receive or
6 provide terrorist training and indoctrination?

7 A. No, sir.

8 Q. And the next paragraph is the information that you received
9 from the French on August 21st, right?

10 A. Yes, sir, I believe on the 22nd.

11 Q. 22nd, excuse me.

12 And what, what response did you get from filing this
13 document, Exhibit 693?

14 A. Mr. Maltbie told us that the determination was that there was
15 insufficient connection between Mr. Moussaoui and a foreign power
16 to go forward to OIPR or the FISA court.

17 Q. Well, he never provided you any written document saying that
18 your warrant application had been rejected by anybody, did he?

19 A. No, sir.

20 Q. You asked him for one, too, didn't you?

21 A. Yes, sir.

22 Q. And he refused to?

23 A. Yes, sir. He provided us -- I guess that's a
24 mischaracterization. He did provide us e-mails to that effect, so
25 paper documents, no, but numerous e-mails spelling that out.

1 Q. Okay. Now, you have complained in many forums about what
2 Mike Maltbie took out of your -- out of this document, correct?

3 A. Yes, sir.

4 Q. Okay. And tell the jury what it is that Mr. Maltbie took out
5 of this document and changed.

6 A. He removed the discussion of Ibn Khattab and his relationship
7 to Usama Bin Laden.

8 Q. Okay. And how is somebody supposed to correct -- from your
9 training, how are you supposed to establish a connection to a
10 foreign power if it's deleted from the document?

11 A. Well, sir, the connection can't be made.

12 Q. That was something Mr. Maltbie did? You tried, didn't you,
13 you tried to get it in there?

14 A. Yes, sir. But it should also be noted that I don't know
15 where that document went. And after Minneapolis objected to it,
16 the document to my knowledge never went any further.

17 Q. Right. You have never seen a document in the course of this
18 investigation where Mr. Maltbie added back in the foreign power
19 information and tried to show it to a soul at the Department of
20 Justice; isn't that correct?

21 A. No, sir, that's correct.

22 Q. Okay. And what else did he take out?

23 A. That to my knowledge, that's the only, the only major fact.

24 Q. Well, he changed some of the language, too, didn't he?

25 A. Yes, sir. I would have to do a side-by-side comparison to

1 recall it exactly.

2 Q. Okay. And you were appalled that he changed this language,
3 weren't you?

4 A. Yes, sir.

5 Q. And you said that he, him editing the letterhead memorandum
6 was a calculated risk that cost 3,000 lives, right?

7 A. The calculated risk that cost us the opportunity to try and
8 stop the attacks. Again, sir, emphasize an opportunity. There
9 were several other points of failure beyond Mike Maltbie and
10 beyond OIPR. It had to get past the FISA court judge as well.

11 Q. Okay. Go to Exhibit 347, please.

12 THE COURT: Any objection?

13 MR. NOVAK: No objection, Your Honor.

14 THE COURT: All right. It's in.

15 (Defendant's Exhibit No. 347 was received in evidence.)

16 BY MR. MAC MAHON:

17 Q. What is this document, Agent?

18 A. This is the cover EC -- I think it is a duplicate of the
19 cover EC in front of my FISA request. This is just -- this is the
20 electronic communication under which I sent the letterhead
21 memorandum to headquarters, and I think we have already looked at
22 that.

23 Q. Okay. How about Exhibit 348?

24 THE COURT: Any objection?

25 MR. NOVAK: No objection.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1214

1 THE COURT: All right. 348 is in.

2 (Defendant's Exhibit No. 348 was received in evidence.)

3 THE WITNESS: This is an e-mail from myself to my
4 supervisor; my co-case agent, John Weess; and to our
5 representative in the London office.

6 BY MR. MAC MAHON:

7 Q. Okay. And you say -- you were trying to establish a
8 connection. Read this, the second paragraph.

9 A. "I just wanted to update you," is that it?

10 Q. Right.

11 A. "I just wanted to update you on where we stand. It seems
12 that thus far ITOS/RFU has determined that we have neither
13 reasonable suspicion that a federal felony was in progress (as
14 needed to open a 265 and pursue search warrants for Moussaoui's
15 effects) or a connection to a foreign power (as necessary to apply
16 for a FISA-authorized search warrant for his effects). I don't
17 agree, but they're in charge."

18 Q. All right. If you go down a little farther, you say:
19 "Therefore, this is a plea to you to see what the U.K. authorities
20 have on him that will either: A, establish he is acting on behalf
21 of a foreign power," right?

22 A. Yes, sir.

23 Q. Or, help to establish that he is involved in the commission
24 of a federal offense, right?

25 A. Yes, sir.

1 Q. And the reason you sent this is nobody in England had
2 responded to anything, right?

3 A. That's correct.

4 Q. And you were desperate to get more information to try to get
5 Mr. Maltbie to go ahead and push your warrant through, right?

6 A. Yes, sir.

7 Q. And you were desperate for more information to try to get a
8 criminal search warrant as well, correct?

9 A. Yes, sir. Either one.

10 Q. Either one.

11 And in response to this, to the, the ALAT in London, you
12 received nothing, right?

13 A. Nothing until after 9/11, yes, sir.

14 MR. MAC MAHON: Exhibit 500, please.

15 THE COURT: Any objection?

16 MR. NOVAK: No objection, Judge.

17 THE COURT: All right. It's in.

18 (Defendant's Exhibit No. 500 was received in evidence.)

19 BY MR. MAC MAHON:

20 Q. Okay. What's this exhibit?

21 A. This is an e-mail from me to the FBI's detailee assigned to
22 the CIA acknowledging that the connection between Ibn Khattab and
23 Usama Bin Laden and al Qaeda is tenuous and asking for additional
24 information that would link them that would strengthen the FISA
25 application.

1 Q. All right. And then what's below here is their response,
2 correct, "Many thanks for this information"?

3 A. Actually, I think it is -- yes, sir, that looks like his
4 response.

5 THE COURT: Whoa, whoa, whoa, whoa. You have them in
6 reverse order.

7 MR. MAC MAHON: Do I? I think -- all right. Let me see
8 if I can get this straight.

9 BY MR. MAC MAHON:

10 Q. Chuck is the FBI detailee to the CIA, right?

11 A. Yes, sir.

12 Q. Okay. And this is him -- at the bottom part, which we have
13 got up on the screen now, is that a note he sent to you?

14 A. Actually, it is a note a CIO employee sent to me using his
15 FBI e-mail system.

16 Q. Okay. So now -- so which is the first one of these two, the
17 top or the bottom?

18 A. The bottom is the first one.

19 Q. Okay.

20 A. You can see from the times, the 10:29 a.m. right there and
21 then if you scroll up, my response is at 11:45 a.m.

22 Q. All right. So this is information, "Harry: Thanks for the
23 information," this is from the Central Intelligence Agency, right?

24 A. Yes. "Harry, Many thanks," that's from a representative at
25 the Central Intelligence Agency.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1217

1 Q. Okay. Why don't you read that for us.

2 A. "Many thanks for this information. French info also was
3 highly interesting -- am not sure why this is not enough to firmly
4 link Moussaoui to a terrorist group -- Ibn al Khattab is well
5 known to be the leader of the Chechen Mujahideen movement and to
6 be a close buddy with Bin Laden from their earlier fighting days.
7 From a read of info, Moussaoui is a recruiter for Khattab. I can
8 confirm from our own info that, in fact, the dead guy, in fact,
9 was a fighter for Khattab who perished in Chechnya in April 2000."

10 Q. So the CIA is saying that this person that we looked at
11 before in the French information, they can confirm that, that that
12 was, in fact, the real story?

13 A. Yes, sir.

14 Q. And that also confirmed the thread of Mr. Moussaoui being the
15 person that had recruited him as well, right?

16 A. Yes, sir.

17 Q. And you sent this information on to Mr. Maltbie?

18 A. Yes, sir. It was actually included in -- this is -- as you
19 can see, this is just a regurgitation of what this CIA employee
20 had previously reported to me. That was already in the LHM that
21 we just reviewed.

22 Q. Okay. But you sent this on again as well, right?

23 A. Yes, sir. We reiterated to the CIA or to Mr. Maltbie, in
24 fact, that the CIA was certain that, in fact, they were connected.

25 Q. Okay. And there was no response from Mr. Maltbie to that,

1 right?

2 A. That was when he responded that they're well aware of Ibn
3 Khattab and they are looking into it. He did respond.

4 Q. What did you know that he ever did to look into it?

5 A. I don't know, sir.

6 Q. Did he ever tell you that he did anything to look into it?

7 A. He did not detail the steps he took to look into it to me,
8 no, sir.

9 MR. MAC MAHON: All right. 636, please.

10 THE COURT: Any objection?

11 MR. NOVAK: One second, Judge.

12 No objection, Judge.

13 THE COURT: All right. It's in.

14 (Defendant's Exhibit No. 636 was received in evidence.)

15 BY MR. MAC MAHON:

16 Q. All right, what is this e-mail, Agent?

17 A. This is an e-mail from myself to my acting supervisor, to
18 John Connelly, who was a detailee from Immigration to the Usama
19 Bin Laden Unit at FBI headquarters, and to my co-case agent.

20 Q. Okay. What were you trying to accomplish with this?

21 A. I was giving him advance notice that we had a case where
22 there was some possible connections to Usama Bin Laden, and so I
23 wanted the Usama Bin Laden Unit to be aware of it as well.

24 Q. Right. And that case was the Moussaoui case, right?

25 A. Yes, sir.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1219

1 Q. So as of August 24th, you were concerned enough about his Bin
2 Laden connections to try to get the UBL Unit involved?

3 A. Sir, I think you can see there, I was concerned about his
4 possible Usama Bin Laden connections, yes, sir.

5 Q. Enough to call the Usama Bin Laden Unit or send them an
6 e-mail, right?

7 A. Yes, sir.

8 Q. And did they get back to you?

9 A. They did not.

10 Q. They did not? Is that what you said?

11 A. Yes, sir.

12 Q. Is that because it was a possible connection or otherwise?

13 A. I don't know, sir. That's -- that's certainly how I phrased
14 it in my e-mail, though, that it was a possible connection,
15 because that's the strongest thing that I could say based on the
16 information provided me.

17 Q. How about Ibn Khattab? You put that in here, too, right?

18 A. Yes, sir.

19 Q. And you said that Ibn Khattab is linked to UBL, right?

20 A. Yes, sir.

21 Q. Okay. And am I right to say from August 24th, '01, to
22 September 11th, you never heard a word from the Usama Bin Laden
23 Unit, no matter what you sent them?

24 A. Yes, sir, that's correct.

25 MR. MAC MAHON: 736, please.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1220

1 THE COURT: Any objection?

2 MR. NOVAK: No objection, Your Honor.

3 THE COURT: All right. 736 is in.

4 (Defendant's Exhibit No. 736 was received in evidence.)

5 THE WITNESS: This is a duplicate of the e-mail we

6 previously looked at as well.

7 BY MR. MAC MAHON:

8 Q. Oh, is it?

9 A. It is.

10 Q. All right. Well, thank you. We have got a lot of paper,

11 Agent Samit.

12 637.

13 THE COURT: Any objection?

14 MR. NOVAK: No objection, Your Honor.

15 THE COURT: All right.

16 (Defendant's Exhibit No. 637 was received in evidence.)

17 THE WITNESS: This is an e-mail from me to another FBI

18 employee detailed to the intelligence community.

19 BY MR. MAC MAHON:

20 Q. Okay. And to the best that you can here in court, tell the

21 jury what you were trying to accomplish by sending this to Cathy,

22 as it says here.

23 A. Cathy was assigned, as I said, to another member of the

24 intelligence community, another agency, and my desire was to get

25 additional information about Mr. Moussaoui.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1221

1 Q. Okay. And did Cathy have access to information that other
2 agencies that you have referred to did not?

3 A. She did.

4 Q. Okay. Where had you met Cathy?

5 A. At an in-service, at in-service training. And she had also
6 assisted Minneapolis on a previous investigation.

7 Q. Okay. Was it an appropriate thing for you to do to address
8 her directly --

9 A. Yes.

10 Q. -- with a request like this?

11 A. Yes.

12 Q. And what did -- the purpose of what you have in this document
13 was what? You are telling her about flight manuals and
14 spiral-bound notebooks, things that you saw, right?

15 A. Yes, that's correct.

16 Q. And you are trying to find out whether she can help you find
17 out whether he is connected to a foreign power, correct?

18 A. Exactly. Because the information I had received as of this
19 date was attenuated. It was not a direct connection. I was
20 hoping that other members of the United States intelligence
21 community would be able to furnish me with that information.

22 Q. It wasn't attenuated to you, was it, Agent? It was
23 attenuated to Mr. Maltbie?

24 A. It was.

25 Q. But it wasn't attenuated to you?

1 A. It was not.

2 Q. Thank you.

3 Did you ever hear back from Cathy?

4 A. I did. I got some e-mails from her immediately prior to the
5 9/11 attacks.

6 Q. Do you know whether Cathy actually responded to this e-mail
7 and provided information?

8 A. I do. And she did.

9 MR. MAC MAHON: Your Honor, can we -- we're going to
10 have to use the silent witness rule for this. We have --

11 THE WITNESS: That's correct.

12 THE COURT: Do you want to approach the bench? We will
13 need the C machine for this.

14 (Bench Conference G not transcribed in this volume.)

15 THE COURT: All right, ladies and gentlemen, in a
16 moment, each of you is going to see Defense Exhibit 506B-1. You
17 may want to put that number in your notebook and add an asterisk
18 by it, but you cannot take notes about that exhibit in your
19 notebook.

20 This document is a classified document. However, we
21 have received limited authorization authorizing what we call
22 partial disclosure, a limited disclosure.

23 We are allowing the jury to review this document, and
24 when you go to -- and then you will return all your copies to us.
25 When you go to deliberate, you may ask to have the document

1 brought back to you, all right? That's why you want to keep track
2 of its number, and we may have a few others similar to that that
3 you will have to have reviewed.

4 Now, you are not ever to discuss the contents of that
5 document outside of what you do in the deliberation room. In
6 other words, this is a classified document that cannot be publicly
7 disclosed. You will have to talk about it among yourselves when
8 you go to deliberate, but other than that, never to be revealed.

9 I think that's sufficient. Mr. Novak, do I need to --

10 MR. NOVAK: I think it is fine.

11 THE COURT: All right. Then let's proceed.

12 MR. MAC MAHON: If I may, Your Honor, the final version
13 that we got is 506B-2. I think the Court was reading from the
14 cover.

15 THE COURT: 506B-2, that's correct. That's the one that
16 I have.

17 Now, do we have the copies for the jury, 506B-2? Does
18 everybody have one? Yes? All right. Go ahead.

19 MR. MAC MAHON: I'm still somewhat at a loss as to how
20 to proceed, Your Honor, but I will do my best.

21 THE COURT: Well, why don't we do this: Ladies and
22 gentlemen, it is not that long. Why don't you read it for
23 yourselves. Just let the jury read it so they understand the
24 content.

25 (Jurors reading document.)

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1224

1 THE COURT: It looks as though everybody has read. All
2 right.

3 Mr. Wood, if you would collect those documents, please.

4 You can ask your question.

5 BY MR. MAC MAHON:

6 Q. Okay. Mr. Samit, the information in Exhibit 506B-2 is the
7 information that you requested on or about August 24th, 2001,
8 right?

9 A. Correct. You mean as referred to in this e-mail?

10 Q. Yes.

11 A. Yes. This was the response to that, yes.

12 Q. And before 9/11 you never received the response at all, did
13 you?

14 A. That's correct.

15 Q. Okay. When did you get the response?

16 A. Sometime in October.

17 Q. Okay. And it was -- to your knowledge, it was delivered to
18 FBI headquarters before September 11th, correct?

19 A. That's correct.

20 Q. And Mr. Frasca, Mr. Rolince, nor Mr. Maltbie, nor anyone else
21 involved from the FBI who was involved in the Moussaoui
22 investigation was provided this information before September 12th,
23 2001; isn't that correct?

24 A. That's correct.

25 Q. And this would have been important information to you,

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1225

1 wouldn't it?

2 A. It would have generated some leads to additional locations,
3 which it did, subsequent to my seeing it, but those leads haven't
4 panned out, so the answer to that is no.

5 Q. But you have previously testified that it refuted the story
6 that Moussaoui had told you when he was interrogated, right?

7 A. It didn't completely refute it. It gave us a new location,
8 and I can talk your eyes onto it by going line and word, by
9 telling you where.

10 Q. Well, I don't think we need to do that. I think we would get
11 somebody standing up from the back of the room. But it didn't to
12 you provide information that would have shown that Moussaoui had
13 given you false information when you interrogated him?

14 A. That he omitted discussing one location, it did, yes.

15 Q. Did you consider charging him with a false statement?

16 A. No.

17 MR. MAC MAHON: Thank you, Your Honor.

18 THE WITNESS: Again, that was subsequent to 9/11, so
19 there was no consideration of that.

20 MR. MAC MAHON: Your Honor, we need to collect all of
21 them and get them back for Ms. Gunning.

22 THE COURT: I know. Mr. Wood should have 17, my copy
23 makes it 18, although we need to have one official one for the
24 record, so I'm going to have -- Katrina, did you hold on to yours?
25 We will collect it after the break. But that needs to be -- to

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1226

1 stay in the record. We will keep it separated.

2 MR. MAC MAHON: We have got all of them, Your Honor.

3 THE COURT: All right.

4 BY MR. MAC MAHON:

5 Q. Look at Exhibit 53, if you would. Is that your handwriting?

6 A. No, sir. I think these may be Greg Jones's notes again, not
7 mine.

8 Q. Now, there is -- in this time frame, did you know that
9 Mr. Maltbie had tasked people to search the Paris phone book to
10 try to find out if it was the same Zacarias Moussaoui?

11 A. Yes, sir. And, in fact, what he did was he requested that we
12 do that.

13 Q. Tell the jury what happened.

14 A. Mr. Maltbie wasn't convinced that the Zacarias Moussaoui whom
15 we had arrested was the same person being referred to in
16 intelligence received either by the CIA or France, and so he
17 wanted an idea of how many Zacarias Moussaouis there would be in
18 France, and a way to search that would have been the phone book.

19 Q. Okay.

20 A. He suggested a way to search that would have been the phone
21 book.

22 Q. When did that happen?

23 A. On or about the 25th, 26th, shortly after the FISA
24 application was submitted.

25 Q. Did he tell you this on the phone?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1227

1 A. Either telephonically or via e-mail.

2 Q. Did you ask him why, what concern he had about whether you
3 had the right Zacarias Moussaoui?

4 A. I believe the conversation occurred between Greg Jones and
5 himself, Mr. Jones, and I'm certain that Mr. Jones did ask him
6 why. I'm not familiar with what Mr. Maltbie's response was. Just
7 to make sure we had the right person.

8 Q. And so did -- and at that time you had his passport, you had
9 information from the French, and you had a lot of other
10 information that confirmed that he was, in fact, Zacarias
11 Moussaoui and that he was a person who had recruited someone to go
12 fight in Chechnya, right?

13 A. Yes, sir.

14 Q. There wasn't any concern in your mind that you had the wrong
15 guy, was there?

16 A. There was not.

17 Q. Okay. And did you tell Mr. Maltbie he was sending you on a
18 wild goose chase?

19 A. I don't know what Special Agent, Supervisory Special Agent
20 Jones told him.

21 Q. Okay. Well, what did you do?

22 A. We requested that the legat in Paris check and see if
23 Mr. Moussaoui appeared in telephone directories in Paris and how
24 many there were.

25 Q. Did you ask Mr. Maltbie if there were more cities in France

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1228

1 than Paris?

2 A. I didn't have a conversation with Mr. Maltbie, so...

3 Q. You don't know why he -- someone said they lived in the south
4 of France, he was telling you to go look in the Paris phone book?

5 A. I don't know why, sir.

6 Q. Okay. Did somebody actually do that?

7 A. I don't believe that Mr. Abbott ever got that far. I think
8 he just discussed the difficulty of the task with Mr. Maltbie. I
9 don't know how that was resolved.

10 Q. I mean, did anybody that you know talk to Mr. Maltbie and ask
11 him why are we looking in the Paris phone book?

12 A. I'm certain that Acting Supervisory Special Agent Jones did,
13 and voiced our objections to it as well.

14 Q. All right. But Mr. Maltbie didn't give it up, did he?

15 A. No, sir.

16 Q. How many days in a row did he ask you to look in the phone
17 book or task you to do that?

18 A. I don't know. I don't know.

19 Q. Up to about September 5th?

20 A. Perhaps -- maybe. He was communicating that with Supervisory
21 Special Agent Jones, and he -- Mr. Jones wasn't passing that on to
22 me.

23 Q. Do you know how many people in the FBI office in Paris were
24 tasked to look through the phone book?

25 A. I don't know.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1229

1 Q. Nobody has gotten back to you on that?

2 A. No.

3 Q. Did you tell him that Mr. Moussaoui lived in London, at least
4 from what he had told you?

5 A. Did I tell Mr. Maltbie that?

6 Q. Maltbie that Moussaoui said he lived in London.

7 A. Yes, sir.

8 Q. What did he say to that?

9 A. He received that along with all the other information in the
10 communications. We didn't bring up London in regard -- in that
11 context, because Mr. Maltbie's interest was the information
12 provided by the French.

13 Q. Right. Mr. Maltbie was fixated on the Paris phone book as
14 some way to confirm that the Moussaoui that you were getting
15 information on, who was a suspected terrorist recruiter was, in
16 fact, the same French guy, and his way of doing that was to look
17 in the phone book, right?

18 A. One recommendation he had to determine how many Zacarias
19 Moussaouis in France, yes, sir.

20 Q. And nobody ever figured that out, right?

21 A. Not to my knowledge, no.

22 Q. And the information you received on the 21st came from a
23 pretty reliable source, didn't it?

24 A. It did.

25 Q. From the French, the French information from the 21st was a

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1230

1 pretty reliable source about the right Zacarias Moussaoui, wasn't
2 it?

3 A. From the 22nd, yes, sir.

4 MR. MAC MAHON: All right. How about Exhibit 641?

5 THE COURT: Any objection?

6 THE WITNESS: I don't have a 641 in here, I don't think.

7 MR. NOVAK: No objection, Judge.

8 THE COURT: It's after 352?

9 THE WITNESS: Oh, I'm sorry, I do.

10 THE COURT: They are out of order a little bit.

11 THE WITNESS: This is an e-mail from myself to Greg
12 Jones; my co-case agent, John Weess; and to Mr. Maltbie. It was
13 in response to a voice mail that Mr. Maltbie left me indicating he
14 wasn't clear as to whether or not I'd provided him all the
15 information on Mr. Moussaoui that we had received, and I just
16 wanted to reassure him that we had.

17 BY MR. MAC MAHON:

18 Q. Okay. And looking down at the second-to-the-bottom paragraph
19 here, you told him that Moussaoui made a call from the jail on
20 August 24th?

21 A. Yes, sir.

22 Q. Okay. You had someone there monitoring all of his calls,
23 didn't you?

24 A. No, sir. We had someone there watching, so we requested that
25 anyone in the jail keep an eye on him and see if he made a call.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1231

1 Unfortunately, that was a mistaken identity issue, and it wasn't
2 Mr. Moussaoui.

3 Q. Moussaoui -- we have been through this. Moussaoui didn't
4 make any calls?

5 A. Correct, yes, sir.

6 Q. So this is an error?

7 A. It is in error.

8 MR. MAC MAHON: 331, please.

9 THE COURT: 641 was in evidence, and 331, any objection
10 to 331?

11 (Defendant's Exhibit No. 641 was received in evidence.)

12 MR. NOVAK: No objection, Judge.

13 THE COURT: All right. It's in.

14 (Defendant's Exhibit No. 331 was received in evidence.)

15 BY MR. MAC MAHON:

16 Q. What is this document, sir?

17 A. This is a document to Mike Maltbie saying that Minneapolis
18 was following up with legat Paris on the phone book lead.

19 Q. Do you want to read the first page -- first line there?

20 A. "Joe Rivers sent an e-mail to Jay Abbott requesting that
21 legat Paris attempt to determine how many Zacarias Moussaouis can
22 be found in France so that we can cover that base."

23 Q. And to your mind as of August 27th, '01, this was an absolute
24 waste of time, wasn't it?

25 A. As far as it being able to advance the investigation of

1 Mr. Moussaoui, yes, sir. However, Mr. Maltbie seemed adamant that
2 we'd be able to say how many Mr. Moussaouis there were in France.
3 And while I may not have considered that the best use of legat
4 Paris's time, if Mr. Maltbie believed it would have bolstered our
5 FISA request, it was something worth doing.

6 Q. And you said to the IG that this was part of his plan to run
7 out the clock, right?

8 A. Yes, sir.

9 Q. To give you worthless jobs to do, direct your attention to
10 other things, so that Moussaoui would just get deported, right?

11 A. Well, in this case, it was this was a worthless job that
12 legat Paris would have had to pursue.

13 Q. You said, you told the IG that he had a predetermined
14 outcome?

15 A. Yes, sir.

16 Q. And that the biggest mistake you made was ever telling him
17 that there was a chance that Moussaoui might be deported, right?

18 A. Yes, sir.

19 Q. All right. That was the biggest mistake you made, because
20 that gave him a finish line. If he gave you jobs that nobody
21 could do, didn't add at all to your investigation, eventually
22 Moussaoui as an INS detainee was going to be put on a plane and
23 sent home, right?

24 A. Yes, sir.

25 Q. And, in fact, he was complaining over which department's

1 budget the plane flight might come out of, right?

2 A. Yes, sir.

3 Q. All right.

4 A. I don't know that "complaining" is the right word. He was
5 inquiring.

6 Q. Yeah. Maltbie was more worried about which agency was going
7 to pay to send Moussaoui home than he was about investigating him,
8 wasn't he?

9 A. No, sir, that's not true.

10 Q. Well, he made a lot of requests to figure out who was going
11 to pay, right?

12 A. It is an issue that FBI supervisors have to deal with with a
13 limited budget.

14 Q. He wanted to send him back to London, because that way the
15 airline would have to pay for it, right?

16 A. He considered that that would be a cheaper method, because as
17 part of the visa waiver program, if the person fails to depart on
18 time, the airline has to return him to his country of origin, yes,
19 sir, he pointed that out.

20 Q. So with you filing these memorandums saying that you think
21 Moussaoui is going to hijack a plane with a weapon, seize control
22 of it for his own ends, Mr. Maltbie and other people in Washington
23 are arguing about who is going to pay for a plane ticket, right?

24 A. Again, sir, it is a concern. It is a very realistic concern.
25 Mr. Moussaoui isn't the only terrorist that the FBI investigates.

1 Budgets needs to be managed.

2 It was -- that to my mind was the least of our concerns.

3 Mr. Maltbie had a legitimate reason to at least examine who was
4 going to pay and where the funds were going to come from.

5 Q. And who was going to go with him, right? You wanted to go
6 with him, right?

7 A. Yes, sir.

8 Q. You were worried about Moussaoui -- Mr. Maltbie was worried
9 about Moussaoui claiming asylum at the airport, right?

10 A. Yes, sir, that was a concern.

11 Q. That Moussaoui was going to ask to stay in the United States
12 as a political prisoner?

13 A. No, sir, as a political asylee, not a political prisoner.

14 Q. Here, again, is another reference to a 48-minute phone call.
15 That's the one we talked about before?

16 A. Yes, sir.

17 Q. That wasn't Moussaoui; that's a mistake?

18 A. It was a mistaken identity, yes, sir.

19 Q. Thank you.

20 349, please.

21 THE COURT: You need to lay a foundation for this.

22 BY MR. MAC MAHON:

23 Q. Okay. Have you ever seen this document before?

24 A. Yes, sir.

25 Q. When did you see this?

1 A. Probably within, contemporaneous with when it was being
2 written by Mr. Jones.

3 Q. Right. And --

4 THE COURT: Then I assume there is no objection?

5 MR. NOVAK: There is no objection.

6 THE COURT: All right. It's in.

7 (Defendant's Exhibit No. 349 was received in evidence.)

8 BY MR. MAC MAHON:

9 Q. What is -- tell the jury what this exhibit is, please,
10 Exhibit 349.

11 A. This is Mr. Jones's response to Mr. Maltbie after viewing the
12 editorial changes to my letterhead memorandum requesting a FISA.

13 Mr. Jones was in this e-mail accurately reflecting our objections,
14 mine and his, to Mr. Maltbie's changes to the initial LHM.

15 Q. Okay. And you say you saw this before it went out or after
16 it went out?

17 A. Either as he was typing it, before he sent it, he called me
18 over to view it, or immediately thereafter.

19 Q. Okay. What was your reaction when you saw what Mr. Maltbie
20 had done with your LHM?

21 A. I was unhappy with that final product.

22 Q. Okay. And how unhappy?

23 A. Extremely unhappy.

24 Q. What did you do?

25 A. I told Supervisory Special Agent Jones that we needed to do

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1236

1 something to correct that, and this e-mail was the result.

2 Q. And just, just walk through this with the jury. Tell them
3 what things were changed and what you were concerned about.

4 A. The biggest concern under paragraph 1 there was the removal
5 of the connection between Ibn Khattab and Usama Bin Laden.

6 Mr. Maltbie believed, as reasonable minds will differ on probable
7 cause issues, Mr. Maltbie believed this was not an adequate
8 foreign power connection.

9 So --

10 Q. Agent Samit, he didn't even put it in, right? He omitted it.

11 A. Right. His explanation was he omitted it and was reworking
12 it until such time as he could get someone to buy that this was an
13 adequate argument.

14 Q. But you told the jury last week that if it wasn't in the
15 application, it would be dead on arrival, right?

16 A. That's correct.

17 Q. So you didn't believe him when he said he was working it up
18 later, right?

19 A. It didn't matter whether I believed that he was doing that or
20 not. The fact that it wasn't in there was a problem, and that's
21 why Supervisory Special Agent Jones's e-mail was sent.

22 Q. Right. You told the inspector general that you know from
23 firsthand experience that details removed from LHMS to DOJ OIPR
24 can cost the lives of innocent Americans. Those are your words,
25 right?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1237

1 A. Yes, sir.

2 MR. MAC MAHON: Exhibit 332, please.

3 THE COURT: Any objection?

4 MR. NOVAK: Judge, I think we have the same
5 authentication issue there. Sorry, I don't see --

6 THE COURT: All right, see if you can lay a foundation.

7 MR. MAC MAHON: 349 was admitted, wasn't it, Your Honor?

8 THE COURT: Yes.

9 MR. MAC MAHON: Thank you.

10 BY MR. MAC MAHON:

11 Q. Have you seen 332 before?

12 A. Yes, sir.

13 Q. And when did you see that?

14 A. Probably immediately after it was received from Paris.

15 THE COURT: That's enough foundation. It's in.

16 (Defendant's Exhibit No. 332 was received in evidence.)

17 BY MR. MAC MAHON:

18 Q. We're on August 28th, 2001.

19 A. Correct.

20 Q. Read that sentence to the jury, please.

21 A. "I have access to the white pages for Paris, but for all of
22 France may be too tall of an order."

23 Q. Mr. -- they are still trying to confirm who Moussaoui's
24 identity is by looking in the phone books, right?

25 A. That's correct.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1238

1 MR. MAC MAHON: Okay. Exhibit 350, please.

2 THE COURT: Again, lay your foundation on this.

3 BY MR. MAC MAHON:

4 Q. Have you seen this before, sir?

5 A. I have.

6 Q. When did you see this?

7 A. Right after, right after, Mr. Jones received it from

8 Mr. Maltbie, he forwarded it to me.

9 THE COURT: All right. Then there is no basis for
10 objection, right?

11 MR. NOVAK: No. We didn't have 350.

12 THE COURT: All right, hold on a second.

13 MR. NOVAK: That's fine. No objection.

14 THE COURT: All right. It's in.

15 (Defendant's Exhibit No. 350 was received in evidence.)

16 BY MR. MAC MAHON:

17 Q. Okay. What is this document?

18 A. This is Mr. Maltbie's response to Mr. Jones's objections.

19 Q. Did you see this?

20 A. I did. Mr. Jones forwarded it to me almost immediately after
21 receiving it.

22 Q. And did this make you angry when you saw this?

23 A. Yes, sir.

24 Q. Remind you of your prior experience with Mr. Maltbie?

25 A. No, the experience wasn't exactly the same. This wasn't

1 reminiscent of that.

2 Q. Different obstruction?

3 A. Objections on different grounds.

4 Q. It says in here on line 2 that you didn't have verbatim
5 answers to the interview questions. Do you see that?

6 A. Yes, sir. It says we don't need to provide verbatim answers
7 to interview questions.

8 Q. But you don't have verbatim answers to any of your interview
9 questions, do you?

10 A. No, sir.

11 Q. And Mr. Maltbie, from talking to all of you, said that he
12 agrees that this guy is a liar, right?

13 A. I'm not following you. Where? Oh, yes, under 4?

14 Q. Um-hum.

15 A. Yes, sir.

16 Q. And so as of August 28th, it was -- the fact that you
17 believed Moussaoui was a liar had gone all the way up to
18 Mr. Maltbie as well, right?

19 A. Yes, sir.

20 MR. MAC MAHON: Exhibit 351, please.

21 THE COURT: Lay your foundation again.

22 MR. MAC MAHON: Thank you, Your Honor.

23 BY MR. MAC MAHON:

24 Q. Have you seen this before?

25 A. I have. These are a string of e-mails between first

1 Mr. Maltbie and Ray Morrow, our acting special agent-in-charge,
2 and Greg Jones, and then Ray Morrow's response to Mr. Maltbie.

3 Q. And do you remember receiving this?

4 A. Yes, sir.

5 MR. MAC MAHON: Move its admission, Your Honor.

6 MR. NOVAK: No objection.

7 THE COURT: All right. It's in.

8 (Defendant's Exhibit No. 351 was received in evidence.)

9 BY MR. MAC MAHON:

10 Q. All right. Who is Spike Bowman?

11 A. He is a very senior person, an attorney in the National
12 Security Law Unit, NSLU you can see there.

13 Q. He is another person you have accused of negligence?

14 A. Yes, sir.

15 Q. And that's because of this document, among other things,
16 right?

17 A. Yes, sir.

18 Q. It says here that Mr. Bowman is still trying to see -- why
19 don't you go ahead and read the second line.

20 A. I'm sorry, say that again?

21 Q. Go ahead and read from where it says "he says."

22 A. "He says we have even less than I thought. Apparently, even
23 if we could show that the ZM that recruited that person in France
24 is the one you have locked up in INS detection, we still don't
25 have a connection to a foreign power."

1 Q. Okay. And this had to drive you crazy, didn't it?

2 A. Yes, sir, it did. With the understanding that reasonable
3 minds will differ as to what constitutes probable cause.

4 Q. Agent Samit, you had in the back -- you were obsessed, to use
5 your term from last week, you thought for sure that a terrorist
6 attack was coming and that something could be done to stop it,
7 right?

8 A. Yes, sir.

9 Q. And you just got obstructed by all of these people on the
10 most minor of points, even whether he is really Zacarias
11 Moussaoui, the whole way, right?

12 A. That was certainly one issue that was raised, but to say that
13 the most minor points revolves around whether that foreign power
14 connection is attenuated or not is not -- that's not an accurate
15 representation of it at all.

16 Q. But you couldn't get past the fact that you had the right
17 guy? You couldn't get the people in Washington to even understand
18 that the Zacarias Moussaoui who gave you his passport and was
19 described in the information provided by the French was the same
20 guy?

21 A. Yes, sir, we were there within a few days of that. And
22 understanding, especially once Mr. Bowman became involved, that
23 people further up the chain had seen it, while it made me angry
24 that they said no, also showed me that it was being advanced in a
25 direction by headquarters. It may not have been in the direction

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1242

1 that I wanted it to go, so it may not have been succeeding, but
2 other people were hearing about it. Other people were receiving
3 the information we had.

4 Q. Are you telling the jury that the actions taken by these
5 people that you have called criminal negligence in your own briefs
6 are now something you have accepted, you think is fine as to how
7 this was handled?

8 A. No, sir, and I didn't say that they were fine.

9 Q. Thank you.

10 CIPA 59, please.

11 THE COURT: I'm sorry, CIPA?

12 MR. MAC MAHON: 59B, Your Honor.

13 THE COURT: Exhibit?

14 MR. MAC MAHON: Exhibit 59B. We've got all these
15 numbers down here.

16 THE COURT: Oh, I'm sorry. I see what you mean. All
17 right.

18 Any objection to 59B?

19 MR. NOVAK: No objection, Your Honor.

20 THE COURT: All right. It's in.

21 (Defendant's Exhibit No. 59B was received in evidence.)

22 BY MR. MAC MAHON:

23 Q. Have you seen this before, Agent Samit?

24 A. I have.

25 Q. Okay. What is this?

1 A. This is further information from our office in Paris about
2 Mr. Moussaoui.

3 Q. And on the bottom of the first page here, the phone calls
4 referenced here on August 29, are those -- these phone calls here,
5 are they yours?

6 A. No. I believe it is Special Agent Abbott's phone calls.

7 Oh, I'm sorry. I can't tell. It is either between me
8 and Paris or between headquarters and Paris. I can't tell from
9 that.

10 Q. And this sticker down here, the 199 here in the right, that
11 means it is still an intelligence investigation, right?

12 A. Yes, sir, that's correct.

13 Q. Did you receive this -- the precedence here is "routine,"
14 right?

15 A. Yes, sir.

16 Q. Okay. And go to the second page, if you would, please.

17 A. Sir, the precedence notwithstanding, Special Agent Abbott
18 e-mailed it to me, so I received it nearly immediately.

19 Q. And this information came from France, right?

20 A. Yes, sir.

21 Q. And it came from a reliable source, correct?

22 A. It did.

23 Q. Why don't you read to the jury what you learned on August
24 30th, 2001.

25 A. "Learning of the death of a person" --

1 Q. Start on the top, if you would.

2 A. "Beginning of translation."

3 Q. Right.

4 A. "On September 28, 2000, our service had an interview with
5 someone regarding the Mujahideen person killed in Chechnya during
6 2000.

7 "Learning of the death of that person, the interview
8 source spontaneously accused Zacarias Moussaoui (date of birth:
9 May 30, 1968, at St. Jean De Luz) of being responsible for the
10 death of their common friend. That person was apparently a friend
11 to both.

12 "He affirmed that it was well known that that person
13 Zacarias who had introduced to the doctrine of radical
14 fundamentalism while they worked together on a BTS at Perpignan,
15 France (Department 66).

16 "That person rejoined Zacarias Moussaoui in Great
17 Britain, where he obtained his diploma.

18 "The person described someone as an individual with
19 superior intelligence and that he brilliantly obtained his
20 Master's Degree at the University of Cambridge.

21 "It was in London that he (Zacarias) was taken in hand
22 and initiated by the fundamentalists of 'Backstreet' and 'Finsbury
23 Park.' [Translator note, probably refers to radical mosques at
24 these locations, i.e. Baker Street and Finsbury Park].

25 "According to blank, this is the same group that also

1 recruited and converted blank to the extremist doctrine, when he
2 arrived in Great Britain.

3 "He noted that he had not seen blank since 1995, when
4 Zacarias returned to France to visit his family and friends.

5 "It was during the course of this visit that Zacarias
6 revealed that he had become completely enlightened on religious
7 matters.

8 "In spite of the force of the certain conviction
9 characterized by blank, himself schooled by the 'habachi' Imam
10 Khaled El Zahti, his intellectual guide, all his attempts to
11 orient blank towards an Islam of tolerance and of moderation,
12 which blank himself follows, were done in vain. Zacarias
13 Moussaoui, wholly convinced of jihad, maintained his radical
14 convictions.

15 "According to blank, had been arrested by the Moroccan
16 police upon his arrival in Morocco, blank, in 1997.

17 "That same year, Zacarias went to Narbonne, France
18 (Department 11). His ardent and emotional preaching in favor of
19 jihad agitated a large number of his childhood friends who he had
20 not seen since his departure to Great Britain.

21 "Blank informed of the trip by blank to the region of
22 Narbonne, himself blank being situated in Morocco, had advised
23 local Muslim community representatives of the moral danger that
24 Zacarias could represent for a number of young Muslims losing
25 their religious bearings and social placement. In this regard,

1 Zacarias was driven from at risk urban areas by his coreligionists
2 for propagating his message of intolerance and hatred.

3 "Blank, who hasn't had any direct news from blank since
4 1997, knew only that he has traveled to Kuwait, Turkey, and
5 Afghanistan.

6 "Blank described Zacarias as an individual who is
7 extremely cynical, completely devoted to the Wahabite cause and
8 concerned with progressing that cause.

9 "He depicted him as a cold, stubborn man, capable of
10 nurturing a plan over several months, or even years, and of
11 committing himself to this task in all elements of his life.
12 Implacable, Zacarias is a strategist that blank qualified as being
13 potentially very dangerous and against who should be surveilled by
14 French authorities should he decide to return to France.

15 "Completely upset and unable to find any excuses for
16 blank, emphasized he would make sure to notify us of any
17 indication that Zacarias would return to France, stating that
18 wherever Zacarias is, Zacarias will try hard to put his
19 competencies and intelligence to the service of subversion.

20 "According to blank, Zacarias and blank were
21 inseparable, one was the head and the other was the armed hand of
22 the same monster."

23 Q. Now, you didn't have any questions about Mr. Moussaoui after
24 you got that from France, did you?

25 A. No, sir, that's correct. The date of birth matched at this

1 point.

2 Q. Okay. And going back to the second page, it says that
3 Moussaoui was initiated by the fundamentalists at Finsbury Park.

4 Do you see that?

5 A. Yes, sir.

6 Q. He had never told you about Finsbury Park when you
7 interviewed him, did he?

8 A. He had not. In fact, he lied about the mosque that he was
9 involved at.

10 Q. So why didn't you charge him with a false statement then?

11 A. Because we still didn't have permission to go to the United
12 States Attorney's Office.

13 Q. But you knew that was a false statement, right? That's a
14 criminal offense, right?

15 A. Yes, sir. Criminal offense or not, we still need authority
16 to go to the United States Attorney's Office. That's -- the wall
17 was still in place. It was still an intelligence investigation.

18 Q. But you could have gotten, if you -- you didn't even ask, did
19 you?

20 A. No, sir.

21 Q. But if you had been able to charge Mr. Moussaoui with a false
22 statement, you could have obtained a search warrant to look at his
23 belongings to find other evidence to support the false statement
24 charge, right?

25 A. Yes, sir, the same as we could have to look at evidence to

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1248

1 support the act of terrorism or the destruction of commercial
2 aircraft. The wall still existed.

3 Q. At this point in time, Agent, you had a crime committed in
4 your presence, he had lied to you and now you could prove it,
5 correct?

6 A. About which mosque he attended?

7 Q. Yes.

8 A. Yes, sir.

9 Q. And that's a mosque that was well-known to you as a terrorism
10 investigator at that time, wasn't it?

11 A. No, sir, I was not familiar with which mosques in the United
12 Kingdom at that time were frequented by Islamic fundamentalists.

13 Q. On the next page it said Moussaoui was wholly convinced of
14 jihad and maintained to his radical convictions?

15 A. Yes, sir.

16 Q. Did the receipt of this document prompt anyone in the
17 Department of Justice to look again at whether there was probable
18 cause to search Moussaoui for a criminal act?

19 A. Sir, to the best of my knowledge, with the exception of the
20 FBI portion of the Department of Justice, none of this information
21 was forwarded to OIPR or any other part of the Department of
22 Justice. I don't know what it prompted on their, on headquarters'
23 end.

24 Q. By headquarters, you mean FBI or Justice?

25 A. FBI headquarters.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1249

1 Q. Did anybody at FBI headquarters call you and say: Agent
2 Samit, you have been telling us that this guy is a terrorist all
3 along, now we know he had even just been to Afghanistan?

4 A. Sir, I'm not sure where the Afghanistan representation is in
5 here.

6 Q. Do you want to look on page 3 again?

7 A. Yes, sir. Oh, to Afghanistan as well, yes, sir.

8 Q. And he didn't admit to you that he had been to Afghanistan
9 when you questioned him, did he?

10 A. He did not.

11 Q. Another false statement, right?

12 A. Yes, sir.

13 Q. In your knowledge what was a Muslim fundamentalist before
14 2001 doing in Afghanistan?

15 A. Receiving training, direction.

16 Q. And nobody in the FBI read this and said: Agent Samit,
17 you're right, now you've got the confirmation of everything you've
18 been telling us, all of your good work is going to pay off, now we
19 have confirmation that he has been to training camps in
20 Afghanistan?

21 A. No, sir, that's not what it said. It didn't say training
22 camps. It said Afghanistan.

23 Q. It needed to say training camps, Agent, for you to move?

24 A. Well, it's not for me to move, sir, but it is important to
25 understand the distinction that all along we had been applying for

1 an application for FISA based on Mr. Moussaoui's connection to Ibn
2 Khattab, and from there to Ibn Khattab's connection to Usama Bin
3 Laden.

4 It is an inaccurate thing to say, in fact, that
5 Mr. Moussaoui or anybody else who traveled to Afghanistan during
6 that time was automatically going there at the behest and
7 direction of al Qaeda.

8 Q. Agent Samit -- are you telling us --

9 A. In fact, there were many other editorials --

10 THE COURT: One at a time.

11 BY MR. MAC MAHON:

12 Q. Your editorial -- this information was critical to you when
13 you received it. You didn't, you didn't say this information was
14 meaningless when you received it?

15 A. No, sir, and it wasn't.

16 Q. You knew it was critical and it proved exactly what you
17 thought about him?

18 A. No, sir, that's inaccurate.

19 Q. And you weren't making excuses like he could have been going
20 there to be a tourist in Afghanistan at that time, because you
21 didn't do anything with it, did you?

22 A. Yes, sir, we forwarded it, we made sure headquarters had seen
23 it and were aware of it and wanted them to include it in our FISA
24 application.

25 Q. But you didn't call anybody, there is no paperwork in here

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1251

1 where you said: Oh, no, now we know Moussaoui has been to
2 Afghanistan, we know he is a Wahabite?

3 A. Sir, as you can see the second recipient on there was
4 Supervisory Special Agent Maltbie. We had ensured that he had
5 received the document and seen it and was aware of its contents.

6 Q. Who is the -- in August of 2001, tell the jury who the Number
7 1 Wahabite in the world was.

8 A. The Number 1?

9 Q. Yeah, who is the most famous Wahabite in the world in August
10 30th, 2001.

11 A. I think you want me to say Usama Bin Laden. In terms of the
12 most famous or the most prominent, he would be it.

13 Q. Right. And you knew that then, didn't you?

14 A. But Mr. Moussaoui being a member of the Wahabi sect, or
15 submitting to it, and even traveling to Afghanistan does not link
16 him legally to al Qaeda.

17 Q. You didn't even ask for a warrant, did you? When you got
18 this, you never made a single attempt again to say now we have got
19 everything we need to get a criminal search warrant, let's
20 resubmit our request, and see if these people will budge? You
21 didn't do it, did you?

22 A. Again, sir, that's a misrepresentation. This was classified
23 information. It was not evidence of a crime sufficient to get, to
24 ask the French government to --

25 Q. Now, you might not have been able to do it because of the

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1252

1 wall, right?

2 A. That's correct.

3 Q. And you didn't even ask if you could go over the wall with
4 this information and try to get a criminal search warrant, did
5 you?

6 A. No, sir.

7 Q. About this same time you actually tried to insert somebody
8 into his cell to talk to him, didn't you?

9 A. Yes, sir.

10 Q. And what did you tell that person to do?

11 A. We asked if that, if an Arabic-speaking officer would be
12 willing to go into jail and be alongside Mr. Moussaoui in the
13 hopes that he would make statements to him that would further
14 provide either a foreign intelligence connection or evidence of a
15 crime.

16 Q. And you submitted this plan up the flagpole of headquarters
17 and what happened?

18 A. Up the flagpole, sir?

19 Q. You tried to get somebody at headquarters to approve your
20 plan to put an Arabic-speaking agent in the cell with
21 Mr. Moussaoui, right?

22 A. To put an Arabic-speaking officer, yes, sir.

23 Q. And it was denied?

24 A. It was.

25 Q. Did anybody from FBI headquarters ever call you and ask you

1 about the information contained in Exhibit 59B?

2 A. No, sir.

3 Q. Anyone from the Department of Justice ever call and ask you?

4 A. No, sir.

5 Q. Anyone from the Central Intelligence Agency?

6 A. We had ongoing dialogue with them about that information.

7 Did anyone call me and ask me --

8 Q. -- about the information in 59B.

9 A. No, sir. It was forwarded to them so they were aware of it.

10 And we had a continuing dialogue about it, so...

11 Q. Do you know whether that information made it into briefings

12 to the director?

13 A. I don't know.

14 MR. MAC MAHON: 642, please.

15 THE COURT: Don't put it on the screen until we know if

16 it is in.

17 MR. NOVAK: No objection.

18 THE COURT: All right. It is in then.

19 (Defendant's Exhibit No. 642 was received in evidence.)

20 BY MR. MAC MAHON:

21 Q. Have you seen this before, sir?

22 A. I have.

23 Q. This is the e-mail you were talking about, where you wanted

24 to make sure that Mr. Maltbie saw this, right?

25 A. No, sir. This is an e-mail from Mr. Abbott in London. And

1 it contained as the attachment the document we were just
2 reviewing, 59B. And it was Jay Abbott ensuring that Mr. Maltbie
3 and I both received it.

4 Q. Okay. So this is what precedes the one you were talking
5 about?

6 A. This document that we were just talking about was attached to
7 this e-mail seen under PS, attached EC is a draft.

8 Q. Who is Joseph Hummell?

9 A. He is our person in London.

10 Q. Did you ever hear back from him in London after you received
11 this?

12 A. No, sir. As we discussed earlier, we didn't hear until after
13 September 11.

14 Q. But this was pretty important information that you sent along
15 to him, wasn't it?

16 A. This is from Jay Abbott sending it.

17 Q. Agent Samit, you knew when you received this information on
18 August 30, 2001 that it was very significant to your
19 investigation?

20 A. Yes, sir, absolutely.

21 Q. All right. Did you ever, after you received this, call
22 Mr. Hummell and tell him "we have got critical information here,
23 what are you doing? What are you finding?" Did you call him at
24 all?

25 A. No, sir.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1255

1 Q. And Mr. Billings is in Oklahoma City, right?

2 A. Correct.

3 Q. And why is Joseph Rivers receiving this?

4 A. Because he was helping with the administrative part of this
5 investigation.

6 Q. All right. 644, please. Excuse me, 643.

7 THE COURT: I assume there is no objection?

8 MR. NOVAK: No objection.

9 THE COURT: All right. It is in.

10 (Defendant's Exhibit No. 643 was received in evidence.)

11 BY MR. MAC MAHON:

12 Q. Have you seen this before?

13 A. Yes, sir.

14 Q. Now, by August 30th the whole -- the people you were dealing
15 with, Mr. Maltbie, Frasca, and all them were all focused on
16 getting Moussaoui deported out of the country, right?

17 A. Yes, sir.

18 Q. And nobody, nobody ever again talked about, other than you,
19 talked about trying to get another search warrant, did they?

20 A. Yes, sir, that's correct.

21 Q. You were the only one?

22 A. People in my office, yes, sir.

23 Q. People in Minneapolis were continuing to try to get a search
24 warrant?

25 A. That didn't end until -- that never ended. It didn't end

1 until we got the search warrant on September 11th.

2 Q. Well, you made a specific written request even on September
3 10th of headquarters, didn't you?

4 A. Yes, sir.

5 Q. So you never stopped trying?

6 A. That's correct.

7 Q. But Mr. Maltbie and Mr. Frasca, they gave up and were just
8 trying to send him home on a plane, that's correct, isn't it?

9 A. In terms of giving up on the search warrant, I don't know
10 what they had done. That wasn't plan A for them at that point. I
11 don't know --

12 Q. You never received any communication from them that said we
13 have received the information of August 30th or anything else that
14 Special Agent Samit has pulled together in this investigation or
15 are going to relook at this thing?

16 A. Yes, sir, that's correct.

17 Q. It never happened?

18 A. We did not.

19 Q. 644, please.

20 MR. NOVAK: No objection, Your Honor.

21 THE COURT: All right. It is in.

22 (Defendant's Exhibit No. 644 was received in evidence.)

23 BY MR. MAC MAHON:

24 Q. You have seen this before, haven't you, Agent?

25 A. Yes, sir, it is an e-mail that I wrote to Scott Billings in

1 Oklahoma City.

2 Q. And this follows your receipt of a translation of al-Attas's
3 phone call to a man named Ndiaye, N-d-i-a-y-e, right?

4 A. Yes.

5 Q. And that's when you learned that al-Attas was, it said, I
6 heard -- "Question: I heard you wanted to go on jihad?" And then
7 al-Attas quickly squashed that line of discussion by saying "can't
8 talk about that now." Right?

9 A. By saying "don't talk about that now," yes, sir.

10 Q. Okay. And did you send this information up to Mr. Maltbie or
11 anybody else?

12 A. Yes, sir. I believe that was included either in an e-mail or
13 a phone call we sent, we had with him.

14 Q. And no response from him about that either?

15 A. I believe that Supervisory Special Agent Jones received that,
16 received a response from Unit Chief Frasca and that was a
17 discussion of the many forms of jihad, that jihad, while the most
18 common term certainly in use by terrorism investigators is holy
19 war, there are other meanings of that word.

20 Q. And that's, Agent Frasca said: Oh, he could have been
21 talking about losing weight, he could have been talking about
22 being nice to his mother, it could be a lot of things other than
23 holy war, right, something along those lines, right?

24 A. About the weight and the mother, I don't know, but --

25 Q. But those are two examples of other forms of jihad?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1258

1 A. He did say, he did say that it could be something other than
2 holy war.

3 Q. Right.

4 A. He raised that as a possibility.

5 Q. But when you talked to al-Attas and said the word jihad, he
6 knew exactly what you meant, didn't he?

7 A. Yes, sir.

8 Q. It was another example of Maltbie just undercutting the work
9 you had done on this case, wasn't it?

10 A. This was between Special Agent Jones and Special Agent Frasca
11 in this case.

12 Q. Excuse me, Agent Frasca. You are right. But Frasca didn't
13 credit the work that you did finding these people talking about
14 jihad either, right?

15 A. Credit?

16 Q. I mean in terms of believing the quality of the work you had
17 done. You have got two Muslims, one of whom you have got all
18 kinds of information on, and one of them says it might be going on
19 jihad, that's pretty important, isn't it?

20 A. Yes, sir, but I don't think it comes down to an issue of
21 whether or not Frasca believed the work that I had done. He was
22 just putting a different -- he was allowing the possibility of a
23 different interpretation of a word that has many meanings.
24 Whether or not I agreed with that, I didn't, but he wasn't -- he
25 didn't not believe what I said.

1 Q. Is that one of the elements of criminal negligence that you
2 have lodged against Mr. Frasca?

3 A. No.

4 Q. His misuse of your word jihad?

5 A. No.

6 Q. Exhibit 810, please.

7 THE COURT: Any objection?

8 MR. NOVAK: One minute, Judge. No objection.

9 THE COURT: All right. It is in.

10 (Defendant's Exhibit No. 810 was received in evidence.)

11 BY MR. MAC MAHON:

12 Q. Have you seen this before, Agent?

13 A. Yes, sir, I wrote it.

14 Q. What is it? Tell the jury.

15 A. It is an August 31st, 2001 letterhead memorandum, in this
16 case from the Minneapolis office, intended to go to the Federal
17 Aviation Administration advising them of a threat to security of
18 aircraft.

19 Q. And who did you forward this to?

20 A. I didn't forward it to anyone. It was never officially
21 released or uploaded.

22 Q. And that's because Mike Maltbie told you not to do it, right?

23 A. It is because Mike Maltbie told Greg Jones that, in fact, he
24 was authoring a cable to the FAA, among other agencies, and that
25 it would go headquarters to headquarters.

1 Q. But you knew, you let it be known through Mr. Jones that you
2 had written a threat assessment about Moussaoui and that you
3 wanted it sent out to the FAA, correct?

4 A. Yes, sir.

5 Q. And he told you no?

6 A. He told me that he was going to handle that.

7 Q. You were told not to do it specifically, weren't you?

8 A. Yes, sir.

9 Q. So the document we're looking at as Exhibit 810 was never
10 seen by a decisionmaker in the United States before 9/11, was it?

11 A. That's correct.

12 Q. Why don't you read the purpose of the document, please.

13 A. The purpose of this document: "To advise the Federal
14 Aviation Administration of a potential threat to the security of
15 commercial aircraft."

16 Q. Okay. Go to page 3.

17 Just while Ms. Bishop is pulling that up, you were very
18 concerned about what you had found, enough to write this document,
19 right?

20 A. Yes, sir.

21 Q. At page 3. Excuse me, Your Honor.

22 THE COURT: We're on page 5.

23 MR. MAC MAHON: She has got page 3 missing, Your Honor.

24 THE COURT: All right.

25 BY MR. MAC MAHON:

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1261

1 Q. All right. Go up a little bit.

2 One of the things you wanted to tell the FAA and were
3 prohibited from doing, Agent Samit, was that when Moussaoui was
4 arrested, he was armed with a small sheath knife in his pocket and
5 admitted that a larger folding blade knife was found under the
6 seat of a car, right?

7 A. Sir, I wasn't prohibited from telling the FAA that.

8 Q. You didn't do it, did you?

9 A. Yes, sir.

10 Q. You told someone at the airport in Minneapolis?

11 A. No, sir, I told someone in the FAA security office in
12 Minneapolis.

13 Q. You never gave the FAA in Washington this document, right?

14 A. That's correct, I didn't.

15 Q. You told somebody in Minneapolis what your concerns were but
16 you didn't even give them this document, did you?

17 A. No, sir, I provided them the teletype that Mr. Maltbie
18 provided. It should be noted though --

19 Q. Agent, I don't need you -- the thing that Mr. Maltbie
20 provided doesn't say anything about large folding blade knives
21 found on Moussaoui, does it?

22 A. I'd have to review it, sir. I can't recall.

23 Q. And you wanted the FAA to know about Moussaoui thinking it
24 was acceptable to kill civilians, that's on page 4, right? Right?

25 A. I'm catching up to you, sir. Hang on one second. Yes. Yep.

1 Q. You wanted to tell the FAA that Moussaoui would harm
2 nonbelievers, who would be described as Christians and Jews,
3 right?

4 A. Yes, sir.

5 Q. You wanted them to know that Moussaoui was involved in
6 physical training, right?

7 A. Yes, sir.

8 Q. That he had no convincing explanation for his training or his
9 money?

10 A. Yes, sir. In fact, I did let them know all of those things.

11 Q. You told somebody -- you did not tell the FAA in Washington
12 this, did you?

13 A. No, sir, but I did tell the FAA. Those were FAA special
14 agents like myself whose job it was to investigate these things.
15 To say that the FAA wasn't notified of all those facts is
16 inaccurate.

17 Q. Well, then where did that meeting take place?

18 A. At the FAA office in Minneapolis, their office.

19 Q. What day was that?

20 A. September 5th.

21 Q. And what was the response from the FAA?

22 A. I don't know. They were very interested. The agents I spoke
23 with were very interested.

24 Q. Anybody ever get back to you? Do you have any paperwork on
25 this? Can we see the knives? Anything like that?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1263

1 A. No, sir.

2 Q. Nobody ever got back to you at all, right?

3 A. Right.

4 Q. Until after 9/11?

5 A. Correct.

6 Q. And you included on page 5 -- if Ms. Bishop could now put up
7 page 5 -- read this paragraph if you would that you wanted to give
8 to the FAA.

9 A. "Information provided by blank, a reliable source with
10 excellent access to the information reported, indicated that
11 he/she is aware that Moussaoui had fully embraced the doctrine of
12 radical Islamic fundamentalism by 1995. Despite attempts to
13 orient Moussaoui towards an Islam of tolerance and of moderation
14 by individuals close to him, he remained wholly convinced of the
15 need for jihad, holy war, maintained his radical convictions and
16 continued to spread his message of intolerance and hatred in
17 several different countries. This source indicated that Moussaoui
18 has traveled to Kuwait, Turkey, and Afghanistan in connection with
19 this goal."

20 Q. In connection with holy war, right, that's what you wanted to
21 tell the FAA?

22 A. Yes, sir. That's what I did tell the FAA.

23 Q. No, that's what you told the person up in Minnesota?

24 A. Well, sir, they are FAA employees. When I tell that person,
25 just like when Mr. Moussaoui makes a statement to me, he is

1 telling the FBI. When I make a statement to FAA employees, I'm
2 telling the FAA.

3 Q. So you did everything -- you weren't obstructed at all in
4 getting your information to the FAA; is that what you are telling
5 this jury?

6 A. The FAA locally? No, sir.

7 Q. Right. But FAA nationally, which was your intent when you
8 drafted this, your intent was to give this to everybody at the FAA
9 so they could act, right?

10 A. Yes, sir.

11 Q. It wasn't your intent to go talk to somebody at the airport
12 in Minneapolis?

13 A. No, sir.

14 Q. Maltbie told you not to, right?

15 A. To talk to those people?

16 Q. Yes.

17 A. No, sir.

18 Q. He told you not to send anything to anybody in Washington
19 about this?

20 A. That's correct, but that's different. He did not direct me
21 not to speak to the people in Minneapolis.

22 Q. You are not going to tell this jury that you talking to
23 somebody in Minneapolis is the functional equivalent of what you
24 were trying to accomplish when you drafted Exhibit 810, are you?

25 A. No, sir, but it is certainly a good alternative.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1265

1 Q. And it was an alternative because you were stopped?

2 A. Yes, sir, from sending it to the FBI or FAA in Washington,
3 yes, sir.

4 Q. Why don't you go to page 6. Read the first paragraph of your
5 threat assessment.

6 A. "Minneapolis believes that Moussaoui, al-Attas, and others
7 not yet known were engaged in preparing to seize Boeing 747-400 in
8 commission of a terrorist act. As Moussaoui denied requests for
9 consent to search his belongings and was arrested before
10 sufficient evidence of criminal activity was revealed, it is not
11 known how far advanced were his plans to do so."

12 Q. Look at Exhibit 474, if you would, please.

13 THE COURT: Any objection to 474?

14 MR. MAC MAHON: We will have to voir dire him on this
15 one, Your Honor.

16 THE COURT: All right.

17 BY MR. MAC MAHON:

18 Q. Have you seen that before?

19 A. Yes, sir.

20 Q. When did you receive this?

21 A. Probably within a few days of its being issued.

22 MR. MAC MAHON: Move the admission of 474, Your Honor.

23 THE COURT: Any objection?

24 MR. NOVAK: No.

25 THE COURT: All right. It is in.

1 (Defendant's Exhibit No. 474 was received in evidence.)

2 BY MR. MAC MAHON:

3 Q. Did you ever see an e-mail Mr. Maltbie wrote where he said
4 that there was no indication that Moussaoui or anyone else was
5 involved in any nefarious activities?

6 A. Yes, sir, I recall that.

7 Q. That's the e-mail that -- the threat assessment that
8 Mr. Maltbie came up with, after you drafted yours, right?

9 A. I can't say. I'd have to see it specifically before I could
10 comment on it.

11 Q. All right. Exhibit 474, tell the jury what that is.

12 A. 474 is a document, a letter from our office in London to the
13 British government, and it looks to contain the information that
14 had come from Paris on August 30th.

15 Q. And this was an attempt to try to get information, to let the
16 people in London know where the investigation was going in France,
17 right?

18 A. Correct. This shows that information was certainly moving
19 among FBI offices overseas and between FBI offices overseas and
20 Minneapolis.

21 Q. And, again, this didn't spur anything coming out of London,
22 right?

23 A. Not that I saw, no, sir.

24 Q. Okay. Exhibit 40, please.

25 THE COURT: I'm sorry?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1267

1 MR. MAC MAHON: Exhibit 40.

2 THE COURT: 40?

3 MR. MAC MAHON: Yes, Your Honor.

4 MR. NOVAK: No objection, Judge.

5 THE COURT: How far down the road is that? I am not

6 seeing it in my book. Is that right after 474?

7 MR. MAC MAHON: It is the fourth from the back, Your

8 Honor.

9 THE COURT: Fourth from the back?

10 MR. MAC MAHON: Well, I see a few more than that.

11 THE COURT: Oh. For some reason you have it -- got it.

12 Got it.

13 MR. MAC MAHON: Sorry, Judge.

14 THE COURT: There is no objection to 40?

15 MR. NOVAK: There is no objection.

16 THE COURT: All right. It is in.

17 (Defendant's Exhibit No. 40 was received in evidence.)

18 BY MR. MAC MAHON:

19 Q. What is this exhibit, Mr. Maltbie?

20 A. This is an electronic communication from myself to --

21 Q. Mr. Maltbie. Excuse me. Agent Samit.

22 A. This is an electronic communication from myself to

23 headquarters to Mr. Maltbie and to Oklahoma City, to Special Agent

24 Billings.

25 Q. As of the 6th, you still had a high priority on this

1 investigation, right?

2 A. Yes, sir. That never changed.

3 Q. Right. That never changed at all?

4 A. No, sir.

5 Q. And were you getting everything you wanted out of these folks

6 in Oklahoma City?

7 A. Almost everything I wanted.

8 Q. Okay. And you got a translation of Mr. al-Attas's call,

9 right?

10 A. Yes, sir.

11 Q. And then a translation of the will?

12 A. Yes, sir.

13 Q. Is that the first time you had the translation of the will?

14 A. It was.

15 Q. And the will says that death is approaching, right, isn't

16 that the language in the will?

17 A. Yes, sir, that's correct.

18 Q. And that concerned you, didn't it?

19 A. It does.

20 Q. That a young man would have a will that said his death was

21 approaching?

22 A. Yes, sir.

23 Q. And you wanted to make sure that that information got up to

24 the Radical Fundamentalist Unit as well, didn't you?

25 A. Correct.

1 Q. And you didn't hear a word back from them, did you?

2 A. No, sir. That's where -- I believe that's where the
3 discussion from the translation of this phone call, I believe
4 that's where the discussion between Supervisory Special Agent
5 Jones and Special Agent Frasca about the meanings of jihad.

6 Q. Many different meanings of jihad, right?

7 A. Yes, sir.

8 Q. How about Exhibit 731, please.

9 THE COURT: Any objection?

10 MR. NOVAK: No objection, Judge.

11 THE COURT: All right. It is in.

12 (Defendant's Exhibit No. 731 was received in evidence.)

13 BY MR. MAC MAHON:

14 Q. Have you seen this before?

15 A. Yes, sir. It is an e-mail I sent to my supervisor.

16 Q. Okay. The first line here, read that to the jury.

17 A. "Oklahoma continues to fall short of expectations."

18 Q. What was the problem?

19 A. There was some circumstantial evidence indicating that
20 Mr. NDI there, the person, may have been involved in some bank
21 robberies. Oklahoma City investigated that at my request and
22 determined that it wasn't, in fact, the case. I was disappointed
23 by the amount of investigation they did.

24 It seems in retrospect they were right. Mr. NDI has
25 never been linked to those bank robberies, but at that time I was

1 frustrated that they didn't do more. It is a real judgment call
2 there. Oklahoma City were the people on the ground there, much as
3 I was the person on the ground in Minneapolis. While I may not
4 have been happy with their decision at the time, they were right
5 and I was wrong.

6 Q. And there were no documents created in this, in the Moussaoui
7 investigation over the long Labor Day holiday, were there?

8 A. What were the dates of that, sir, do you know?

9 Q. Well, it would have been -- the 3rd of September, I think,
10 was Monday. Do you remember? Did you go on vacation?

11 A. No, sir.

12 Q. You went on vacation at one point in time, didn't you, during
13 this?

14 A. I took a day off, yes, sir.

15 Q. You went to the fair?

16 A. Yes, sir.

17 Q. Okay. Exhibit 729, please.

18 MR. NOVAK: No objection.

19 THE COURT: All right. It is in.

20 (Defendant's Exhibit No. 729 was received in evidence.)

21 MR. MAC MAHON: Just a second.

22 THE COURT: Since it's 3:30, and we normally take the
23 afternoon break around this time, why don't we take a 20-minute
24 recess and we will continue at 10 of.

25 (Recess at 3:30 p.m., until 3:50 p.m.)

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1271

1 (Defendant in, Jury in.)

2 THE COURT: I think we were about to address Exhibit
3 729; is that correct?

4 MR. MAC MAHON: Yes, Your Honor. And we'll withdraw
5 that exhibit and instead move to 334.

6 THE COURT: All right.

7 MR. NOVAK: No objection.

8 THE COURT: All right, 334 is in.

9 (Defendant's Exhibit No. 334 was received in evidence.)

10 BY MR. MAC MAHON:

11 Q. Tell the jury what Exhibit 334 is.

12 A. It's an e-mail exchange between myself and Cathy regarding
13 any information that I'd received that she tried to get to me, and
14 her last, her last message on September 10.

15 Q. And that's the information that we talked about -- and we
16 didn't talk about, right?

17 A. Correct.

18 MR. MAC MAHON: Okay. Now, if we could scroll down a
19 little bit, Ms. Bishop, please.

20 Q. Here, Agent Samit, this is an accurate characterization of
21 how you felt on September 10, 2001, isn't it?

22 A. It is, yes, sir.

23 Q. You were desperate?

24 A. Yes, sir.

25 Q. And the argument at this point in time was who was going to

1 go and who was going to be present for the search, the information
2 down there, right?

3 A. Yes, sir. A short time after I sent this e-mail, at the very
4 end of the day, and actually received Cathy's e-mail, at the very
5 end of the day, I learned that we had been approved to go.

6 Q. Had been approved to go to France?

7 A. Correct, yes, sir.

8 Q. Okay. And scroll back up, if you would, and read to the jury
9 Cathy's message on September 10, 2001.

10 A. "Harry, thanks for the update. Very sorry that this matter
11 was handled the way it was, but you fought the good fight. God
12 help us all if the next terrorist incident involves the same type
13 of plane."

14 MR. MAC MAHON: Exhibit 701, please.

15 THE COURT: Any objection?

16 THE WITNESS: I don't think -- I don't have 701.

17 THE COURT: It's back before 334, Agent Samit.

18 THE WITNESS: Oh, sorry, I do. I have it.

19 MR. MAC MAHON: Thank you, sir.

20 MR. NOVAK: No objection.

21 THE COURT: All right, it's in.

22 (Defendant's Exhibit No. 701 was received in evidence.)

23 BY MR. MAC MAHON:

24 Q. Have you seen this before, Agent Samit?

25 A. I have. I wrote it.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1273

1 Q. And you wrote this on September 10, 2001?

2 A. Yes, sir.

3 Q. Okay. Was this before or after you received that information
4 from -- that e-mail from Cathy?

5 A. It was started before that.

6 Q. Turn to the second page, if you would.

7 Read the writing on the second page, sir.

8 A. "In the interest of advancing captioned investigation and
9 preventing rather than forestalling a terrorist attack by
10 Moussaoui, Minneapolis JTTF undertook to obtain criminal search
11 warrants."

12 Q. Okay. What is this document?

13 A. This was an electronic communication, as you can see from the
14 first page, that was going from myself to the special agent in
15 charge of the Minneapolis Division. I wrote it at Mr. Morrow's
16 request in order to document all of the investigative steps and
17 all of the requests that we'd made of FBI headquarters, so that he
18 would have a vehicle to make better arguments to advance any of
19 our requests. It was just a summary for the head of my office,
20 essentially, as to everything that had gone on in the case so far.

21 Q. Because you hadn't given up at all, had you, Agent?

22 A. No, sir.

23 Q. Did you get any response from Washington on this EC?

24 A. This EC was never, was never sent.

25 MR. MAC MAHON: If I could, Your Honor, it was not in

1 the book, is to show -- and I'm almost done, Your Honor.

2 THE COURT: All right.

3 MR. MAC MAHON: Exhibit 639. And I have copies for
4 counsel and the Court.

5 Q. Have you seen this before?

6 A. I don't know that I've seen this exact e-mail, no, sir.

7 Q. Did you learn in -- on or about August 24 of 2001 that
8 Mr. Maltbie was telling people that there was no indication that
9 Moussaoui and al-Attas --

10 MR. NOVAK: Your Honor, I object. He's trying to go the
11 back way when he can't get in through the exhibit. That's totally
12 inappropriate. He can't authenticate the document. He can't
13 start reading the document --

14 MR. MAC MAHON: Let me ask this way. I'll start again.

15 THE COURT: I'll sustain the objection. You have to
16 rephrase your question.

17 MR. MAC MAHON: Thank you.

18 Q. Did you -- you told the OIG that Maltbie undercut your
19 efforts at literally every turn, right?

20 A. I told him that he undercut my efforts to go to the U.S.
21 Attorney's Office and to obtain a FISA search warrant, yes, sir.

22 Q. And one of the ways he did that was by telling people that
23 there was no indication and that you had generated no leads that
24 would show that Moussaoui was up to anything nefarious; is that
25 correct?

1 A. One of the ways he did that was by not accepting the standard
2 of information I provided either establishing that there was
3 criminal activity or a link to a foreign power, yes, sir.

4 Q. And he, he also interfered with your investigation in
5 Oklahoma City, didn't he?

6 A. Yes, sir.

7 Q. All right. He went without even talking to you, he called
8 the people in Oklahoma City and ask them to go see Hussein
9 al-Attas and clear up a few matters, right?

10 A. That's what I was told by Agent Billings, yes, sir.

11 Q. And you thought that was totally inappropriate for him to do
12 that, right?

13 A. Based on his position and the fact that it was my
14 investigation, yes, sir.

15 Q. And you thought it was inappropriate for Mr. Manarang to have
16 told you not to arrest Moussaoui since he wasn't on the ground,
17 either, right?

18 A. No, sir, that's not an accurate characterization. I didn't
19 think it was inappropriate. He just wasn't in possession of all
20 the facts at the time he raised that option with me.

21 Q. You didn't think that he knew as much as you did at that
22 time?

23 A. He didn't. Once I supplied him with the additional facts, he
24 was up to speed, and we were in agreement.

25 Q. That was after he was arrested, right?

1 A. No, sir. That was prior to his arrest.

2 Q. You were on the phone with Mr. Manarang when Moussaoui was
3 arrested, weren't you?

4 A. No, sir.

5 Q. Did you testify -- do you remember testifying in front of the
6 IG, sir?

7 A. Yes, sir.

8 Q. Didn't you testify that you were on the telephone?

9 A. That I was on the telephone when Mr. Moussaoui left his hotel
10 room and that I hung up with Mr. Manarang upon sighting him.

11 Q. And in that conversation, he told you that he wanted to take
12 the cautious approach, right?

13 A. Yes, sir, until I advised him, as we discussed this morning,
14 until I advised him that we already notified the hotel clerk in
15 order to ascertain what room Mr. Moussaoui was in.

16 Q. Right. You told Mr. Manarang and you told the IG that by
17 that time, it was too late?

18 A. Yes, sir.

19 Q. Right?

20 A. Correct.

21 Q. And on that phone call while you were in front of the
22 Residence Inn, he was still telling you not to arrest him?

23 A. No, sir. Once I explained that to him, he said he
24 understood.

25 MR. MAC MAHON: Just a second, Your Honor.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1277

1 THE WITNESS: I also had to end the phone call because
2 Mr. Moussaoui came outside.

3 MR. MAC MAHON: Okay. Can we show the witness his IG
4 testimony?

5 MR. NOVAK: Which exhibit?

6 MR. MAC MAHON: Pages -- it's just the Inspector General
7 testimony that he gave.

8 MR. NOVAK: Well, do you have an exhibit number?

9 MR. MAC MAHON: It's in the testimony. Pages 35 and 36.
10 Could we show it to the witness, Your Honor?

11 THE COURT: All right. Agent Samit, just to give us
12 some context, was there an actual evidentiary hearing as part of
13 the Inspector General's investigation?

14 THE WITNESS: I'm not sure what would have constituted,
15 you mean a -- I was interviewed under oath, Your Honor, by agents
16 and attorneys from the Office of the Inspector General. In terms
17 of an evidentiary hearing with a magistrate or someone present,
18 there wasn't.

19 THE COURT: All right. But was there a court reporter
20 present?

21 THE WITNESS: No. It was just tape-recorded.

22 THE COURT: But it was tape-recorded.

23 THE WITNESS: It was, yes, Your Honor.

24 THE COURT: So it's verbatim?

25 THE WITNESS: It is.

1 THE COURT: All right.

2 BY MR. MAC MAHON:

3 Q. Okay. When was the date of that interview, Mr. Samit?

4 A. I don't recall. Sometime in June 2002.

5 Q. Okay. June 20, 2002, right?

6 A. Yes, sir, if that's what the transcript says.

7 Q. And you were under oath that day, weren't you?

8 A. I was.

9 Q. Okay. You testified starting on page 35, line 22, "Joe and I
10 had talked once or twice."

11 That's Joe Manarang, right?

12 A. Yes, sir.

13 MR. NOVAK: Judge, I object if Mr. MacMahon is going to
14 read this. First of all, it's only admissible if it's an
15 inconsistent statement. The passage is not inconsistent, and if
16 he believes it, he should point to certain passages.

17 THE COURT: Well, I'll overrule the objection, but you
18 may lead the witness because this is cross-examination, but I
19 think it's -- you can either have the witness read his prior
20 statement in, or you can ask him questions about it, but I don't
21 want you reading it in.

22 MR. MAC MAHON: Okay.

23 Q. Let me ask you this: You told the IG that Manarang called
24 you before Moussaoui came out of the hotel room, right?

25 A. Yes, sir.

1 Q. And Manarang called and said, "We don't want him arrested.

2 Let's take the cautious route." Correct?

3 A. Yes, sir.

4 Q. That is before you arrested Moussaoui, right?

5 A. That's correct.

6 Q. He told you: We'll get together a surveillance team from

7 Chicago or New York, and we'll follow him around, right?

8 A. Yes, sir, that's what he said.

9 MR. MAC MAHON: Nothing further, Your Honor, except for

10 I want to move Exhibit 697, please.

11 THE COURT: Any objection?

12 MR. MAC MAHON: Which I don't believe is in the book,

13 but it's his submission to the director's panel on the OIG

14 findings.

15 THE COURT: Any objection?

16 MR. NOVAK: Yes, we object to that, Judge.

17 THE COURT: All right. Let me take a look at it.

18 MR. NOVAK: May I say why we object?

19 THE COURT: Let me just have it first.

20 Go ahead. You need to be at the lectern, remember.

21 MR. NOVAK: Oh, I'm sorry, Judge. Excuse me.

22 That submission to the director was far more than the

23 questioning that occurred here with Mr. MacMahon. Mr. MacMahon

24 has asked Agent Samit about specific comments that he made in a

25 document. Agent Samit has answered those questions and has

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1280

1 admitted to the relevant statements that are contained in the
2 document, and that's what should go into the record, not the
3 entire document.

4 THE COURT: Mr. MacMahon?

5 MR. MAC MAHON: Your Honor, there's a lot more
6 information -- a lot of the information is redacted out of that,
7 as the Court is well aware, but the information in there are
8 detailed historical answers to things that he did far in excess of
9 what I asked just in terms of impeachment or otherwise. This
10 document is his explanation of many of the things that happened in
11 this case, and it is plainly relevant in this case even if it
12 wasn't offered for impeachment.

13 It's not hearsay. It's a government report. And it's
14 plainly admissible. The jury can give whatever weight they want
15 to it, Your Honor.

16 MR. NOVAK: Judge, it obviously is hearsay. It's a
17 prior statement of the witness. The only way it's admissible is
18 if it's --

19 THE COURT: We can't hear you, Mr. Novak. You've got to
20 be at the lectern.

21 MR. NOVAK: Sorry. Again, it is by definition hearsay.
22 It is a prior statement of the witness. The only way that it is
23 admissible is if it is there to impeach the witness. Mr. MacMahon
24 used the appropriate portions of that document to impeach Agent
25 Samit, and only those documents, which he acknowledged, he

1 answered those parts of the document, he admitted those, those
2 were -- those are already in the record. They're in front of the
3 jury now.

4 The balance of the document is hearsay, and it's just
5 not an appropriate way to introduce this document.

6 THE COURT: I'm going to sustain the objection. The
7 entire document is, is way -- it's 44 pages. I think that
8 traditionally the testimony of a witness is what the jury hears in
9 court. We do have some exceptions to that in this particular
10 case, and it is certainly not the normal way in which things are
11 done, and this would be, in essence, allowing a particular
12 witness's testimony to be sitting in the jury room when other
13 witnesses' testimony is not, so I'll sustain the objection.

14 But obviously, Mr. MacMahon, if there's anything on
15 recross that you don't think has been adequately covered, you can
16 go into it.

17 MR. MAC MAHON: Thank you, Your Honor.

18 MR. NOVAK: Thank you. I have a few questions on
19 redirect, if I might, Judge.

20 THE COURT: All right.

21 REDIRECT EXAMINATION

22 BY MR. NOVAK:

23 Q. Agent Samit, you've been asked a lot of questions about the
24 law and the difference between an intel case and a criminal case.
25 Could you tell us why it is that you originally opened the case as

1 a criminal case, as opposed to an intel case?

2 A. Yes, sir. Because at the time I opened it and at the time I
3 was required to begin investigating, I didn't have evidence of a
4 crime being committed. I had some suspicious information that
5 pointed to possible act of terrorism, and the policy then
6 prevailing dictated that you open an intelligence investigation or
7 we couldn't investigate.

8 Q. At the time that you opened it, did you know that there was
9 this, this thing called the wall?

10 A. Yes, sir.

11 Q. Okay. And could you describe for the jury what the
12 difference is under the law between your suspicions and probable
13 cause?

14 A. Yes, sir. It's, it's huge. And, unfortunately, it was
15 decisive in this case.

16 MR. MAC MAHON: Your Honor, that's couched in terms of
17 his training. I don't think he can make a legal conclusion on
18 whether there was probable cause or not in this case.

19 MR. NOVAK: Well, he can relate it to the facts of this
20 case.

21 THE COURT: No, I think you can testify, Agent Samit,
22 based on your training and experience as an FBI agent whether you
23 believed you had probable cause, all right, and your understanding
24 of that doctrine, but Agent Samit cannot testify as a, as a legal
25 expert.

1 MR. NOVAK: That's fine, Judge. I wasn't trying to do
2 that.

3 THE WITNESS: My understanding is that probable cause is
4 not a science, it's an art, and it's not an exact quantifiable
5 element in determining whether or not we can get a search warrant.
6 The definition, as I understand it, of probable cause is more
7 likely than not likely to be the case.

8 And I also understand that it's designed, the system of
9 law is designed to be flexible, to be a very variable system. I
10 as an agent in the field, the person emotionally linked to the
11 investigation, can feel very strongly. I can take other, other
12 factors into consideration in wanting to advance a FISA, in
13 wanting to advance a search warrant, that is, the potential
14 seriousness of it, but I also understand that probable cause, as
15 opposed to my investigative suspicions, has to be reviewed at
16 several other levels up my chain, up the legal chain, before it's
17 determined to be probable cause, the last being a judge.

18 BY MR. NOVAK:

19 Q. And the probable cause, would that be based upon the evidence
20 that you've collected?

21 A. It would.

22 Q. And is that why the documents that you e-mail or the various
23 ECs, as you've described them here, electronic communications,
24 include only the information that you've gathered as opposed to
25 the questions that you've asked?

1 A. Yes, sir.

2 Q. All right. Now, you talked about the wall for a second
3 earlier, and you've talked about that it's to prevent abuses, but
4 I don't think we've heard you describe what are the abuses that
5 the wall is designed to prevent?

6 MR. MAC MAHON: Your Honor, this can't be of any
7 relevance, the abuses of the wall in this case.

8 THE COURT: I think this is redirect. That was
9 sufficiently within the scope of the cross. I'm going to permit
10 it.

11 MR. MAC MAHON: Thank you.

12 MR. NOVAK: Thank you.

13 THE WITNESS: Abuses could be, as I said at the outset
14 of this investigation, there was very little evidence of a crime
15 being committed, certainly when I opened the intelligence
16 investigation.

17 Again, myself and my fellow agents in Minneapolis who
18 were physically and emotionally closest to this investigation,
19 there can always be a tendency to overexaggerate or to attempt to
20 employ an intelligence technique, information gathered by that, to
21 bolster a criminal argument, and so the wall exists to prevent
22 intelligence techniques from being used to gather evidence of a
23 crime.

24 BY MR. NOVAK:

25 Q. All right.

1 A. It's, in essence, to prevent abuse of the defendant's rights.

2 Q. Well, let me ask you as an example then -- if we could have
3 Defense Exhibit 59B put on the screen by Ms. Bishop, if I could,
4 please.

5 And while she's getting that exhibit, do you recall
6 Mr. MacMahon asking you a question of the violation of the Section
7 1001? Do you recall that?

8 A. Yes, sir, I do.

9 Q. Do you want to explain to the jury what under the federal
10 code a violation of 1001 is?

11 A. 1001 is a false statement. In my case, 1001 is a false
12 statement to a federal agent. A person can make that either
13 verbally in writing, in essence, telling a lie or misleading story
14 constitutes a federal felony.

15 Q. It's against the law?

16 A. Yes.

17 Q. They're not allowed to lie to you as an FBI agent?

18 A. Yes, sir.

19 Q. Now, to prove -- if you were to charge someone criminally
20 with 1001, do you have to have evidence to do that?

21 A. Yes, sir, absolutely.

22 Q. All right. Now, this Exhibit 59B, do you recall this
23 exhibit? Do you have it in front of you there?

24 A. I have it now. Yes, sir, I do.

25 Q. All right. Do you want to remind us again what that exhibit

1 was?

2 A. This was the August 30, 2001 submission from the French
3 government providing additional intelligence information on
4 Mr. Moussaoui.

5 Q. Back in August of 2001, had you charged Mr. Moussaoui with
6 1001, could you have used this intelligence in a criminal court?

7 A. No, sir.

8 Q. And why not?

9 A. It would have required the authority of the French government
10 to do that first and foremost.

11 Q. All right. So did you have any evidence to charge
12 Mr. Moussaoui with 1001 back in August of --

13 A. No, sir.

14 Q. Now -- thank you, Ms. Bishop.

15 Mr. MacMahon has asked you why it is that you've
16 interviewed Mr. Moussaoui over two days and you have notes of
17 about one page. I think it's -- I can't remember what exhibit he
18 marked it, but do you want to explain why it is that your notes
19 were only one page as to -- after you interviewed Mr. Moussaoui
20 for two days?

21 A. Yes, sir. Because when I'm interviewing a person, typically
22 my technique -- and they do vary among agents -- is not to write a
23 lot down. It's distracting. It distracts me as the interviewer,
24 it distracts certainly the person being interviewed, the subject
25 of the interview. I try to be minimalist in my writing of notes

1 for those reasons.

2 Q. All right. Now, at some point, though, after your notes, do
3 you codify that into a written report?

4 A. Absolutely, yes, sir.

5 Q. And did you do that in this case?

6 A. I did.

7 Q. And is that the original electronic communication that you
8 wrote in this case?

9 A. Yes, sir, the lengthy one.

10 Q. I think that was Defense Exhibit 472, as I recall, if you
11 could take a look at that. Ms. Bishop tells me I guessed right on
12 the number. 472, do you want to take a look at that?

13 THE COURT: It's about the 9th or 10th in from the
14 beginning.

15 THE WITNESS: That's correct. That's the one.

16 BY MR. NOVAK:

17 Q. Okay. And in that document, do you describe the various
18 statements that Mr. Moussaoui told you?

19 A. I do.

20 Q. How many pages long is it that you write about the statements
21 about Mr. Moussaoui?

22 A. Several. Six, probably five or six.

23 Q. Okay. And are those the same statements you talked about
24 when I asked you on direct examination a week ago?

25 A. Yes.

1 MR. MAC MAHON: Your Honor, I object. That's for the
2 jury to decide, whether what's in this document is what he
3 testified to.

4 THE COURT: I'll sustain that objection.

5 MR. NOVAK: All right.

6 Q. Let me ask you this: Within that document, though, 472, did
7 you write down everything you could recall as to what
8 Mr. Moussaoui said?

9 A. I did.

10 Q. All right. Now, Mr. MacMahon was asking you some questions
11 about whether you went to Pakistan and whether you had indeed gone
12 on a wild goose chase as a result of Mr. Moussaoui's questions. I
13 don't think you got to answer -- finish your answer. Could you --
14 did you -- were you sent on a wild goose chase?

15 A. Yes, sir, I was.

16 Q. And could you explain to the jury factually what it is that
17 you mean by the "wild goose chase"? What did you do?

18 A. I can. The wild goose chase can best be explained with this
19 Exhibit 472.

20 Q. Okay.

21 A. Mr. Moussaoui provided fairly detailed, for him, in the
22 context of interviewing him, fairly detailed information about his
23 contacts and associates in London. He talked about places he'd
24 worked. He provided an address, residential address and confirmed
25 that it was his.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1289

1 He described an associate, Ahmed Atif, as a person who
2 provided him money. And he did some of those things in a way that
3 made myself and made Special Agent Weese feel as though he gave
4 those up reluctantly. None of those people -- and you can see
5 from my communication here that leads were sent to places like
6 London and Paris and not sent to Pakistan because he minimized the
7 importance of Pakistan, which is actually where his associates and
8 his sources of funding originated.

9 The wild goose chase comes in the leads that I sent to
10 London and the UK. The fact that there was a long delay in the
11 British replying to us, the fact that I didn't set leads to
12 Pakistan, Mr. Moussaoui actively threw us off the trail of where
13 his real source of funding and where his associates were located.

14 Q. And can you take a look at Defense Exhibit No. 692? If
15 Ms. Bishop would be kind enough to go to page 5 then and then page
16 7.

17 Do you have 692, Agent?

18 A. Yes, sir, I have page 5 up.

19 Q. Well, while we're getting page 5 on the screen, could you
20 remind the folks what Exhibit 692 is?

21 A. This was my letterhead memorandum that was attached to that,
22 enclosed with that original opening communication that went to our
23 office in London asking for investigation in London.

24 Q. This is what you asked the Brits for help, as part of this
25 wild goose chase; is that right?

1 A. Yes, sir.

2 Q. And on page 5 -- if we could scroll down a little bit
3 farther? That's fine.

4 Is the reference in there about the sources of
5 Mr. Moussaoui's income that you wanted verified, as you kept
6 asking about during the interview?

7 A. Yes, sir.

8 Q. Okay. And where is that on that page?

9 A. At the bottom there, that second line up, with NOP, that was
10 the company that Mr. Moussaoui identified.

11 Q. Okay. If you could go to page 7 then as well now,
12 Ms. Bishop, please?

13 If you could go to the bottom of that document, where it
14 indicates the request of Minneapolis?

15 A. Yes, sir.

16 Q. Do you see that?

17 A. I do.

18 Q. And is this what you're asking the people -- or the
19 government of the United Kingdom to help you out on?

20 A. Yes, sir, it is.

21 Q. And did you make a specific request for information about his
22 financial support and other things that he had told you about?

23 A. I do.

24 MR. NOVAK: All right. Thank you, Ms. Bishop. You can
25 take that down.

1 BY MR. NOVAK:

2 Q. Now, the, the -- you obviously have a very poor opinion of
3 Mr. Maltbie; is that correct?

4 A. Yes, sir.

5 Q. And Mr. Frasca, is that right?

6 A. That's correct.

7 Q. And that's over this disagreement about whether you had
8 sufficient evidence to show the foreign power connection; is that
9 right?

10 A. Sufficient probable cause, yes, sir.

11 Q. Okay. And you were, and you were trying to prove that
12 Mr. Moussaoui was connected to al Qaeda; is that right?

13 A. I was.

14 Q. All right. Now, Mr. MacMahon kept asking you a number of
15 times about this comment about the television, viewing Usama Bin
16 Laden on the television that Mr. al-Attas had said to you. Could
17 you tell us again what it was that Mr. al-Attas said to you about
18 that?

19 A. Mr. al-Attas indicated that Mr. Moussaoui had mentioned
20 Mr. Bin Laden, Usama Bin Laden, one time. They were watching
21 television, and Mr. Bin Laden's picture came on, and he said that
22 Mr. Moussaoui called his attention to it and said that that was
23 someone important, that was someone, a recognized figure.

24 Q. Did you ask Mr. al-Attas if the, the sheikh that you were
25 questioning about was actually Bin Laden?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1292

1 A. Yes, sir.

2 Q. And what did Mr. al-Attas say?

3 A. Mr. al-Attas informed me that he didn't think so. He didn't
4 think that was the case.

5 Q. So that didn't help the link you do to Bin Laden then; is
6 that right?

7 A. No, sir. Remarking about a figure as significant and
8 controversial as Usama Bin Laden on television does not link a
9 person to al Qaeda. I comment on Usama Bin Laden when I watch the
10 news, too.

11 Q. If Mr. Moussaoui had told you himself that he was a member of
12 al Qaeda, would that have linked it?

13 A. If Mr. Moussaoui had? Absolutely. That would have been a
14 slam dunk.

15 Q. Could you tell us what the impact was on our investigation by
16 Mr. Moussaoui denying that he was a member of a terrorist
17 organization and failing to say that he was a member of al Qaeda?

18 MR. MAC MAHON: Your Honor, this was all gone through on
19 direct. I didn't ask him things that Mr. Moussaoui didn't ask
20 him. That's for the jury to decide.

21 THE COURT: I think this is a repeat of the direct, and
22 that's not proper redirect. I'll sustain that objection.

23 MR. NOVAK: All right.

24 Q. Well, let me just ask you this then, Agent Samit: Could you
25 use the information that you received from Mr. Moussaoui as part

1 of your efforts to get a FISA?

2 A. The information I received in the course of my interview?

3 Q. Yeah. That information that you did get from Mr. Moussaoui
4 when you interviewed him over those two days, you relayed it to
5 your headquarters, right?

6 A. I did.

7 Q. And you tried to use that as part of getting the FISA; is
8 that right?

9 A. Yes, sir.

10 Q. And had he told you anything else, you could have used that
11 as well?

12 A. Absolutely, yes, sir.

13 Q. Including if he had told you whether he was part of an
14 organization?

15 MR. MAC MAHON: Your Honor, that's --

16 THE COURT: Sustained.

17 MR. MAC MAHON: Thank you.

18 THE COURT: That's the same question.

19 MR. NOVAK: Judge, I have no further questions,
20 actually.

21 THE COURT: All right.

22 MR. NOVAK: Thank you.

23 THE COURT: Now, recross is limited to redirect.

24 MR. MAC MAHON: Yes, Your Honor. Thank you.

25 RECROSS EXAMINATION

1 BY MR. MAC MAHON:

2 Q. Agent Samit, you don't have any idea what they were doing in
3 London, do you?

4 A. I'm sorry, what who was doing?

5 Q. Did you have any idea what was going on in London before you
6 sent out your LHM and when no information came back until after
7 9/11?

8 A. If you're asking if I have no idea what our office was doing
9 in London?

10 Q. You have no idea what the people in London that were supposed
11 to get information about this wild goose chase that Mr. Novak
12 asked you about, what any of them were doing?

13 A. No, sir. I know what the people at our embassy were doing,
14 what our agents there were doing.

15 Q. And this reference to Usama Bin Laden as being meaningless
16 before -- you said when somebody points out to one of their
17 associates that they are -- that Usama Bin Laden is an important
18 person, that's just something you would disregard as an agent?

19 A. No, sir, but it's something that doesn't carry a lot of legal
20 weight in a FISA argument.

21 Q. What did you need, an affidavit from Bin Laden himself?

22 A. I'm sorry, sir? For what? What purpose would I --

23 Q. Well, you asked Moussaoui if he was a terrorist, and does how
24 you act to defend this country depend on whether he says yes or no
25 to that question?

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1295

1 A. No, sir.

2 Q. And you told the IG that it's irresponsible for anyone to say
3 that the FBI could have stopped 9/11. Aren't those your exact
4 words?

5 MR. NOVAK: Judge, I object. This is now beyond
6 redirect.

7 THE COURT: That's beyond the scope or redirect.

8 BY MR. MAC MAHON:

9 Q. Hussein al-Attas was charged with a 1001 count, wasn't he?

10 A. Yes, sir. That's what I was told later.

11 Q. And if you'd gotten information from Moussaoui, you would
12 have had to figure out how to throw that over the wall, too,
13 right?

14 A. Yes, sir, but it would have been information collected -- as
15 the Court pointed out earlier, would have been collected in a very
16 straightforward, non-intelligence intensive technique.

17 Q. Right. And then no FISA -- no intelligence techniques were
18 ever employed on Moussaoui, were they?

19 A. Prior to 9/11, no, sir.

20 Q. Right.

21 A. Well, actually, that's not accurate. No, no -- none of the
22 FBI's intelligence techniques authorized under FISA were employed
23 prior to 9/11, but we enlisted the assistance of the intelligence
24 community, so it's not accurate to say no intelligence techniques
25 were provided.

1 Q. At the time you arrested Moussaoui, no, no possible
2 intelligence techniques whatsoever had been employed against him.

3 You got a tip, right?

4 A. Yes, sir. We had -- we had -- at the time we arrested him,
5 he'd made a request of a foreign government. That was an
6 intelligence technique.

7 Q. Didn't have anything to do with arresting him, did it?

8 A. No, sir.

9 Q. All right. And when you got information that Moussaoui had
10 been to Afghanistan and was a Wahabi, you didn't make any effort
11 to get that over the wall, either, did you?

12 A. No, sir. That was not information that was evidence of a
13 crime. As we discussed before, it was further evidence of his
14 association with a foreign power, and that was provided to the
15 people who were helping us with a FISA, but that's not evidence of
16 a crime, sir. That's intelligence information.

17 Q. Agent Samit, how many times have you said under oath that as
18 of August 21, 2001, it was unequivocal, to use your words, that
19 there was sufficient probable cause to charge Moussaoui with a
20 crime?

21 A. Many times.

22 Q. Right.

23 A. In my opinion, sir.

24 Q. Have you ever --

25 THE COURT: Let him finish.

3-20-06

U.S. v. Moussaoui

Volume VI

Page 1297

1 BY MR. MAC MAHON:

2 Q. Agent, you never once asked a single judge who's in charge of
3 determining probable cause to actually determine whether there was
4 probable cause to search Moussaoui?

5 A. Yes, sir. That's why I phrased it as in my opinion.

6 MR. MAC MAHON: Nothing further, Your Honor. Thank you.

7 THE COURT: Agent Samit, thank you for your testimony.

8 Now, just wait one second.

9 Is there any possibility that Agent Samit might be
10 called again in the course of the proceedings.

11 MR. NOVAK: There is. For that reason, we don't want
12 him released, and I'd actually ask him to treat himself as
13 sequestered from this point forward just in case he's recalled.

14 THE COURT: Agent Samit, that means you don't read
15 anything about this case. You avoid any media coverage. You're
16 free to go back to work. They'll give you advance notice when
17 you're supposed to come back here. And obviously, you're not to
18 discuss your testimony or anything you've seen or heard in the
19 courtroom with any witness who has not yet testified.

20 THE WITNESS: Yes, Your Honor.

21 THE COURT: Thank you. You're free to go at this point.

22 (Witness stood down.)

23 THE COURT: Call your next witness, Mr. Spencer.

24 MR. SPENCER: Thank you, Your Honor. The United States
25 calls Scott Billings.